

# EXHIBIT P

Hearing

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

PHILLIPS, L.G., LCD CO., LTD, )  
Plaintiffs, ) C.A. No. 04-343 (JJF)  
)  
v. )  
)  
TATUNG CO., TATUNG COMPANY OF )  
AMERICA, INC., and VIEWSONIC )  
CORPORATION, )  
Defendants. )

Hearing of above matter taken pursuant to notice before Renee A. Meyers, Registered Professional Reporter and Notary Public, in the law offices of BLANK ROME, LLP, 1201 North Market Street, Wilmington, Delaware, on Thursday, August 16, 2007, beginning at approximately 3:35 p.m., there being present:

BEFORE: THE HONORABLE VINCENT J. POPPITI, SPECIAL MASTER

APPEARANCES:

THE BAYARD FIRM  
RICHARD D. KIRK, ESQ.  
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Wilmington, Delaware 19899  
for Plaintiffs

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## Hearing

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1 APPEARANCES (Continued):	1 Does anyone object to going forward and letting
2 MCKENNA, LONG & ALDRIDGE, LLP	2 Miss Gaza join us as soon as she is able to dial in?
3 CASS W CHRISTENSON, ESQ	3 MR. MERIDETH: That's okay with us
4 REL S AMBROZY, ESQ	4 MR. CHRISTENSON: We have no objection, You
5 1900 K Street, N.W.	5 Honor
6 Washington, D.C. 20006	6 SPECIAL MASTER POPPITI: Thank you That
7 for Plaintiffs	7 may be -- Miss Gaza?
8 RICHARDS LAYTON & FINGER	8 MS. GAZA: Good afternoon, Your Honor I am
9 ANNE SHEA GAZA, ESQ	9 very sorry for being delayed
10 One Rodney Square	10 SPECIAL MASTER POPPITI: Not at all Thank
11 Wilmington, Delaware 19801	11 you
12 for Defendant Tatung Co	12 I was just proposing that we start with
13 GREENBERG TRAURIG LLP	13 LPL's application dated August 8th, 2007, to produce
14 FRANK MERIDETH, ESQ	14 assembly instructions
15 VALERIE HO, ESQ	15 MR. AMBROZY: Yes, Your Honor, it's Rel
16 2450 Colorado Avenue, Suite 400E	16 Ambrozy
17 Santa Monica, California 90404	17 SPECIAL MASTER POPPITI: And let's go ahead
18 for Defendant Tatung Company of America, Inc	18 and do that
19 CONNOLLY BOVE LODGE & HUTZ LLP	19 MR. AMBROZY: Your Honor, what we were
20 JAMES D HEISMAN, ESQ	20 asking for as the assembly instructions from Tatung was,
21 1007 North Orange Street	21 basically, a category of documents that --
22 Wilmington, Delaware 19899	22 SPECIAL MASTER POPPITI: Counsel, before you
23 for Defendant ViewSonic Corporation	23 get too far into your presentation, I have to tell you
24	24 that I am somewhat troubled with the fact that, both
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1 MR. KIRK: Yes, Your Honor Richard Kirk	1 with respect to this application and another application
2 from The Bayard Firm for Plaintiff, LG Phillips, LCD	2 that we will be looking at, that the meet and confer
3 Company, Ltd With me on the line, from Washington, are	3 history is not fully described in your application
4 my colleagues from McKenna, Long & Aldridge, Cass	4 And what I am rather specifically referring to is that,
5 Christenson and Rel Ambrozy	5 although being informed that there was a July 11, 2007,
6 MR. HEISMAN: Good afternoon, Your Honor	6 e-mail from Mr. Connor to Valerie Ho requesting the
7 This is Jim Heisman from ViewSonic Corporation I am	7 production that we are about to address, and then being
8 from Connolly Bove in Wilmington	8 informed that some time went by before other
9 With me on the line today is Tracy Roman	9 correspondence was sent, I believe, and somebody corrected
10 from the Roskin Peter firm in Los Angeles	10 me if I am wrong, that it was July 31st
11 MS. HO: Your Honor, I am not sure if Anne	11 MR. AMBROZY: That's correct, Your Honor
12 Gaza has dialed in yet	12 SPECIAL MASTER POPPITI: That, low and behold,
13 MR. MERIDETH: And Frank Merideth is also on	13 there was a teleconference that occurred July
14 the line for the Tatung defendants	14 the 12th where Miss Ho conferred with Mr. Connor, and
15 SPECIAL MASTER POPPITI: Thank you If you	15 that's nowhere to be found, and I gather, based on
16 could shoot Anne an e-mail	16 Miss Ho's representation, and I can hear her with
17 MS. HO: I am sending her an e-mail right	17 respect to that, that the meet and confer of that date
18 now	18 forms the sum and substance of their response to this
19 (Discussion off the record)	19 August 10 application, unless I am missing something
20 SPECIAL MASTER POPPITI: While we are	20 here?
21 waiting for Anne, I would propose that we work, saving	21 MR. AMBROZY: No, Your Honor, Your Honor
22 some of the tedious for last, if you will, I have,	22 apologize for that What happened was Mr. Cormac -- I
23 what's marked for my purposes, No. 40, and that is --	23 mean Mr. Connor did write the e-mail on the 11th, and
24 let me ask this question because it does involve Tatung:	24 then I just found out today, actually, that he did have

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<p>1 a conference call with Miss Ho and Mr. Merideth on the      2 12th Mr Connor had actually left for paternity leave      3 and was out of the office for several weeks And we      4 actually referenced in our letters, if you turn to      5 Exhibit C, I did state in that letter, that, As you      6 know, Cormac has been out of the office -- in Exhibit C      7 to our letter brief, we stated in the second paragraph      8 that, "As you know, Cormac has been out of the office,      9 and, so, unless we missed it, we still have not received      10 the assembly instructions"</p> <p>11 So, Your Honor, I apologize for that I was      12 under the impression that there had not been a      13 discussion between Mr. Merideth and Miss Ho and      14 Mr Connor</p> <p>15 SPECIAL MASTER POPPITI: Okay Well,      16 Miss Ho, is there anything else to be said about that      17 miscommunication, if you will?</p> <p>18 MS HO: Only that we were not aware that      19 Mr Connor was out of the office, and it was our      20 impression, after the meet and confer with Mr Connor,      21 that these issues had been resolved, so we were very      22 surprised to see these motions to compel</p> <p>23 MR AMBROZY: So, I don't know the      24 procedure, Your Honor We could discuss this off-line,</p>	<p>1 that meet and confer      2 And I think, Mr Christenson, if I      3 understand what you just told me --      4 MR AMBROZY: Mr Ambrozy, Your Honor      5 SPECIAL MASTER POPPITI: I am sorry,      6 Mr Ambrozy, thank you -- that you just learned that the      7 meet and confer occurred on July 12th, you learned of      8 that fact today Well, I learned of that fact on August      9 the 10th      10 Even if there is some, I don't know whether      11 there will be, some disagreement as to what occurred      12 during the course of the meet and confer, I was put on      13 notice and you all representing LPL were put on notice      14 on August 10 that there was a discussion on July 12th      15 and should be prepared today to discuss the sum and      16 substance of that meet and confer      17 So I'd like to hear from Miss Ho, please      18 MS HO: Yes, Your Honor During that meet      19 and confer, Mr Connor, basically, raised the issues      20 that were raised in his e-mails to me that were sent on      21 July 11th In short, he had asked for the assembly      22 instructions and the module specifications And at the      23 meet and confer, we informed him that we had produced      24 both categories of documents, and that whatever we could</p>
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<p>1 but I think, even with this misunderstanding, I think we      2 are still at, I believe we are at an impasse based on      3 Tatung's response to our letter brief of August 8th      4 SPECIAL MASTER POPPITI: Well, what I'd like      5 to understand, and I realize that we are working a      6 little bit at a disadvantage because Mr Connor is not      7 on the line, but let me do this: I understand the      8 nature of the application, and I believe I understand      9 the nature of the response, and the nature of the      10 response is framed in terms of that conference that took      11 place on July 11 I would like -- I am sorry, on July      12th      13 I would like the issue to be framed against      14 that because that's the reality of where we are I      15 mean, I understand that there was miscommunication, but      16 if I am satisfied that either an understanding was      17 reached, and there is where we are all working with, at      18 least some of us on the phone, are working with a hand      19 tied behind our back, or if the sum and substance of      20 what Miss Ho is suggesting occurred at the meet and      21 confer meets the production request, I think I should      22 deal with it in that fashion      23 So, I do want to hear from Miss Ho, from her      24 perspective, what was discussed during the course of</p>	<p>1 locate, we had already provided to LPL And that was      2 the gist of the conversation with respect to the      3 documents that are being sought in the two motions      4 SPECIAL MASTER POPPITI: And the only      5 question I have is -- and you have provided me with a      6 copy of assembly instructions; correct?      7 MS HO: Yes, Your Honor And these are      8 just examples      9 SPECIAL MASTER POPPITI: Yes I understand      10 that      11 Are the assembly instructions, as you      12 understand them, do they form what you understand to be      13 the request of LPL for working instructions? And what      14 do you understand to be the difference, if any, and are      15 there any such things that have not been produced that      16 are called "working instructions"?      17 MS HO: Well, to clarify, Your Honor, there      18 are working instructions, and those documents are Tatung      19 America documents that have been provided to LPL long      20 ago, back in January and February of this year      21 In connection with Mr Connor's request on      22 the 11th, and LPL's motion, they are not seeking, as I      23 understand it, working instructions They are seeking      24 assembly instructions that were specifically referred to</p>

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<p>1 in Mr Vincent Lu's deposition      2 SPECIAL MASTER POPPITI: Yes I am aware of      3 the reference and I am aware that they do refer to      4 assembly instructions      5 MS HO: And those are the assembly      6 instructions that were attached, or at least we attached      7 two samples, and those assembly instructions have been      8 provided to LPL      9 MR AMBROZY: If I may, Your Honor?      10 SPECIAL MASTER POPPITI: Please      11 MR AMBROZY: The distinction we drew was      12 specifically to the working instructions versus the      13 assembly instructions because the assembly instructions,      14 first of all, were for Tatung Company products, not for      15 Tatung America. And, secondly, the assembly      16 instructions are somewhat detailed, and according to      17 Mr Lu's deposition testimony, they are -- they      18 basically teach the operators how to assemble the parts,      19 and I am quoting, Teach the operators how to assemble      20 the parts together and also the matters that they should      21 have paid attention to      22 So, we took particular care to make sure      23 that we were both on the same page, asking for assembly      24 instructions, and it was our understanding that the</p>	<p>1 vendors. And then there are the plasma televisions, the      2 42-inch, 46-inch, and 50-inch, and that's it in terms of      3 the accused products      4 So, I don't understand where Mr Ambrozy is      5 getting the 26 categories of accused products      6 MR. AMBROZY: Because it does go to the      7 second grouping of products. It encompasses both the      8 23. It goes to the products accused under the first      9 constructions and then under the second appeals      10 construction      11 MS HO: Well, Your Honor, first of all, we      12 disagree that documents relating to the other products      13 would be relevant at this point because Your Honor has      14 issued your claim constructions and LPL has taken a      15 position. So, as far as we are concerned, there is a      16 list of accused products and those are the TLMs and the      17 plasmas      18 Having said that, from looking at the      19 assembly instructions, and I don't have all of them in      20 front of me, it appears that we did produce all of the      21 assembly instructions we could find on both the LCD      22 monitors and the plasmas, and they weren't limited to      23 just the narrowed list of accused products that LPL      24 recently provided</p>
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<p>1 assembly instructions were different than what had      2 already been produced      3 But in regard to what's been produced, there      4 is really only six -- out of the 23 accused products,      5 there is only six groups of accused products that we      6 have a -- that Tatung has produced assembly instructions      7 for. And, so, that leaves 17 accused product groups      8 without assembly instruction      9 SPECIAL MASTER POPPITI: Miss Ho      10 MS HO: Your Honor, I don't believe that's      11 correct. I don't know which accused product groups      12 Mr Ambrozy is referring to      13 As Your Honor may or may not know, in LPL's      14 recent interrogatory responses, they provided two sets      15 of accused products. One set contains products that LPL      16 contends are infringing if Your Honor's conception of      17 rear mountable is adopted, and that list is      18 substantially smaller than the original list of accused      19 products      20 And, in fact, there are, basically, only two      21 categories of accused products that remain accused in      22 light of Your Honor's claim construction. And those      23 are, one, the TLM LCD monitors which they know we do not      24 assemble to begin with. We buy those from third-party</p>	<p>1 MR AMBROZY: I think that's what's      2 troubling, Your Honor, is that, during the deposition of      3 Mr Lu, we -- I specifically asked whether -- and he had      4 gathered a lot of the documents, he had gathered the      5 assembly drawings and so forth and we specifically asked      6 whether he had gathered any of the assembly      7 instructions, and he responded that he had not. And I      8 asked whether he was aware if anybody else had, and he      9 responded he had not      10 So, all we are looking for is either Tatung      11 to go and ask specifically for the assembly instructions      12 for the accused products or a representation that they      13 have asked and they don't exist      14 MR MERIDETH: Your Honor, we have      15 represented, and represent again here, that, with      16 respect to the accused TLM products, we do not assemble      17 those, that is, Tatung does not assemble those, they buy      18 them from a third-party vendor, and we do not have      19 assembly instructions for those products      20 SPECIAL MASTER POPPITI: And that's -- go      21 ahead. I am sorry. That is with respect to the      22 products?      23 MR MERIDETH: That's correct. With respect      24 to the plasma products, we have produced documents</p>

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<p>1 called, quote, assembly instructions, and we have given 2 the Bates Nos for those instructions to LPL.</p> <p>3 SPECIAL MASTER POPPITI: When were they 4 produced?</p> <p>5 MS HO: I believe it was before Mr Lu's 6 deposition</p> <p>7 SPECIAL MASTER POPPITI: Okay Thank you</p> <p>8 MR MERIDETH: And we represented, in 9 Mr Lu's deposition, that all of those documents have 10 been produced We have reached agreement, we thought, 11 with Mr Connor that they had been produced, and we 12 attached copies of those which we produced and the 13 ranges of bates numbers for the assembly instructions 14 that we produced. And these are documents that are 15 titled "Assembly Instructions"</p> <p>16 We have also produced the exploded-view 17 documents and we have also produced the portions of the 18 CAD CAM drawings that have been ordered by Your Honor. 19 So, we have complied in all respects, and I don't know 20 what more we could do We have represented that we have 21 produced all that we have in our possession. We have 22 demonstrated that we have produced them except with 23 respect to the FLM, which we have represented we do not 24 assemble I don't know what more we could do</p>	<p>1 be denied as moot Okay Just give me one moment, 2 please</p> <p>3 No 41, as I have it marked for my purposes, 4 is LPL's application for additional inspection of prior 5 art devices, and, as I understand it, there is a 6 proposal that is either on the table or was on the table 7 for discussion?</p> <p>8 MS HO: With respect to Tatung, Your Honor?</p> <p>9 SPECIAL MASTER POPPITI: Yes</p> <p>10 MR AMBROZY: Your Honor, that is correct, 11 and I actually believe that, based on that, that we 12 might be able to come to some agreement on accomplishing 13 the inspections, and if I could just talk to Ms Roman 14 for one minute --</p> <p>15 SPECIAL MASTER POPPITI: Do you want to do 16 that off-line because I am happy to put you on hold so I 17 don't necessarily need to participate or hear the 18 conversation?</p> <p>19 MR. AMBROZY: Tracy, are you there?</p> <p>20 MS ROMAN: Yes, I am That's fine</p> <p>21 SPECIAL MASTER POPPITI: Do you want to do 22 it that way?</p> <p>23 MR AMBROZY: Yes, Your Honor I think it's 24 going to be quicker</p>
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<p>1 SPECIAL MASTER POPPITI: You are saying 2 that, I think it's obvious, based on what you have just 3 said, regardless of whether Judge Farman adopts my 4 findings and recommendations or whether he does 5 something different with them?</p> <p>6 MR MERIDETH: That's correct</p> <p>7 SPECIAL MASTER POPPITI: Mr. Ambrozy, I 8 don't know that you can have any more than the 9 representation that it sounds like you have received 10 before</p> <p>11 I am not trying to question what Mr Connor 12 would say or what he wouldn't say, but counsel is 13 telling me that the same -- the representation that was 14 just made was made to him and that they were satisfied 15 that there would be no further discussion about it</p> <p>16 Now, regardless of that part, it seems to me 17 that what you have, for the record, is a representation 18 that everything that has been requested with respect to 19 the universe of accused products, notwithstanding what 20 claim construction did to that universe existing the day 21 before as opposed to the day after, you have all the 22 information. all the production as the accused products 23 existed the day before claim construction</p> <p>24 I am satisfied that the application should</p>	<p>1 MR. MERIDETH: Well, on behalf of the Tatung 2 defendants, this is another one of these failure to meet 3 and confer situations</p> <p>4 We indicated, in my correspondence, that if 5 there was a compelling reason why the reexamination 6 ought to take place, that we would be happy to consider 7 that and nobody ever contacted us or suggested, until 8 this motion was filed, that there was any reason</p> <p>9 When the motion was filed, we immediately 10 responded by saying, We would, in fact, make this stuff 11 available consistent with our expert looking at the 12 material</p> <p>13 And, so, I don't see, frankly, that it's 14 quite fair to us to have to continue to participate in 15 wrangling over when this is going to be done It should 16 never have been filed and reached this stage in the 17 first place</p> <p>18 And I don't think, you know, Well, okay, 19 they didn't comply, now we will go off-line and discuss 20 this, is not fair to us. They have to comply with the 21 meet and confer requirements</p> <p>22 MR. AMBROZY: We believe we did meet -- we 23 did comply with the meet and confer requirements. As we 24 read Mr Merideth's letter, the compelling reason would</p>

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<p>1 be something short of a Court order to do so, and, so,  2 that was the reason we filed the motion. We felt we  3 were at an impasse and that also goes for ViewSonic's  4 requirements as well.</p> <p>5 SPECIAL MASTER POPPITI: I am going to  6 permit the conversation to occur. I mean, I am troubled  7 by how these wound up on my desk, there is no question  8 about it. At the same time, it seems to me the better  9 path forward, in terms of the system, is to simply  10 permit you to discuss it one more time and tell me that  11 it's either resolved or not resolved, and then I will  12 determine whether or not there is any relief that should  13 be granted.</p> <p>14 MR. AMBROZY: Thank you, Your Honor.</p> <p>15 SPECIAL MASTER POPPITI: All the clocks call  16 out a different time. It is 4:01. May somebody propose  17 a time, please?</p> <p>18 MR. AMBROZY: I think 4:10, Your Honor,  19 should be more than enough.</p> <p>20 SPECIAL MASTER POPPITI: All right. Thank  21 you.</p> <p>22 (Discussion off the record.)</p> <p>23 SPECIAL MASTER POPPITI: Can I expect, then,  24 there has been substantial agreement on what I referred</p>	<p>1 specifications were produced.</p> <p>2 SPECIAL MASTER POPPITI: Okay. Mr. Ambrozy.</p> <p>3 MR. AMBROZY: Yes, Your Honor. We,  4 basically, moved to have Tatung identify the LCD modules  5 in each of the accused products because when we took the  6 deposition of Mr. Lu, who, again, was Tatung Company's  7 30(b)(6) witness, he identified, or he stated for the  8 record that when the monitors are designed, they either  9 get the LCD module from the LCD module vendor or they  10 get the specifications from the vendor. And, so, we are  11 -- by his testimony, it's our understanding that Tatung  12 Company is in possession of the identification of the  13 modules used in its products.</p> <p>14 And, so, again, we moved to have that  15 information produced because we were unable to identify,  16 from the production, which modules pertain to which  17 monitors. Although there were some LCD module  18 specifications produced, without knowing, or without  19 identification from Tatung as to which one -- which LCD  20 module is in which monitor, the identification of the  21 LCD module specifications really doesn't do us much good  22 unless it's our understanding Mr. Merideth's letter on  23 August 1, where he identified all the LCD module  24 specifications, that his understanding that that's the</p>
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<p>1 to as 4:1?</p> <p>2 MR. AMBROZY: There is, Your Honor.</p> <p>3 SPECIAL MASTER POPPITI: Okay. Does Tatung  4 agree?</p> <p>5 MS. HO: Yes, Your Honor.</p> <p>6 SPECIAL MASTER POPPITI: No. 42 is LPL's  7 application to compel Tatung to identify LCD modules  8 used in each of the accused products, correlate each  9 accused products with an LCD module.</p> <p>10 MR. AMBROZY: Yes, Your Honor. Again, this  11 was, again, based on my understanding that we had not  12 received any reply to our July 11th e-mail, and I  13 apologize for that.</p> <p>14 SPECIAL MASTER POPPITI: Well, let me ask  15 what the understanding was as of, for the record, as of  16 the date of the meet and confer that I now know took  17 place.</p> <p>18 MS. HO: Your Honor, it was very similar.  19 Mr. Connor inquired as to whether we had produced module  20 specifications and we told him that we had produced all  21 of the specifications we could locate for the accused  22 products that were accused at the time, noting that the  23 list has grown substantially smaller at this point, but  24 we were going off of the broader list when the</p>	<p>1 universe of LCD modules in their products, then we can  2 go with that representation.</p> <p>3 MR. MERIDETH: It is not, and we have made  4 that clear that it is not. We have what I think is a  5 basic misunderstanding and we have tried to deal with  6 before.</p> <p>7 One, we do not -- when you talk about LCD  8 specifications, you are talking about something that  9 describes the components within the LCD module. Those  10 are not matters which are of concern to our client.</p> <p>11 Our client, Tatung, wants the dimensions,  12 and I think Mr. Lu made it clear, in his deposition,  13 that he was talking about the dimensions of the LCD  14 module, not the internal specifications of the LCD  15 module, which are not of concern to us, so long as the  16 module performs in the manner that our customer  17 specifies in its -- in its purchase order request or  18 proposal to us.</p> <p>19 We also have always made it very clear that  20 we will produce those specifications that we have, but  21 they are not a matter that we have for every single  22 product that we have produced.</p> <p>23 Third, we indicated that we produced and we  24 have produced again, for a second time, a list of</p>

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<p>1 correlations, although such correlations were never      2 requested in any of the discovery, we did produce a list      3 of the correlations of the products that we made in      4 connection with the case that was brought by LPL out in      5 California that covers the vast bulk of the LCD      6 products</p> <p>7 We are attempting to obtain, from our      8 vendors, the specifications with respect to the plasma      9 products, and I think we have some but we have not yet      10 obtained all of the specifications, but it's not      11 something that we normally maintain in the ordinary      12 course of our business.</p> <p>13 We do not correlate the specifications      14 regarding the internal components of the module. What's      15 important to us, again, is the dimension. And we have      16 indicated that repeatedly. We have provided what we      17 have, and, indeed, this correlation that they are      18 requesting now was never requested in any discovery</p> <p>19 MR. AMBROZY: The correlation was      20 specifically because, it's our understanding from the      21 record and from Mr. Lu's testimony, that there is      22 correlation that occurs. A monitor is designed around a      23 specific LCD module. And, so, even if you only get the      24 written specification and Tatung Company does not</p>	<p>1 clarifying something that Mr. Merideth said      2 MS. HO: Yes, Your Honor. I did want to      3 raise the point that LPL really did not ask for this      4 correlation data, and, in fact, when I had my meet and      5 confer with Mr. Connor, the issue of correlating the      6 module model numbers to the product model numbers was      7 never raised.</p> <p>8 The only issue that was raised had to do      9 with the production of module specifications. LPL never      10 served a document request that sought correlation data,      11 and it never sought a meet and confer regarding      12 correlation data even after Mr. Lu's deposition had been      13 taken.</p> <p>14 MR. AMBROZY: Let me point out, for the      15 record, that Mr. Lu's deposition occurred after the      16 close on March 30th because Tatung consistently produced      17 new documents as the new monitors that were coming on      18 the market that should have been produced earlier.</p> <p>19 So, Mr. --</p> <p>20 SPECIAL MASTER POPPITI: Counsel, it is fair      21 to say, we had a cleanup opportunity in terms of making      22 applications; fair?</p> <p>23 MR. AMBROZY: In what sense, Your Honor?</p> <p>24 SPECIAL MASTER POPPITI: I can't give you</p>
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<p>1 receive the LCD module physically, there is still an      2 identification of the module inside that monitor, and      3 that's the information we are after.</p> <p>4 So, even if you don't have -- if Tatung      5 Company is not in possession of the specifications for      6 the LCD module, we at least want an identification of      7 that LCD module and we will find the specifications      8 ourselves.</p> <p>9 MR. MERIDETH: First of all, we provided you      10 what we have already and we don't maintain that as part      11 of the ordinary course of our business. We did generate      12 it in connection with a prior case. But, in this case,      13 it was never requested.</p> <p>14 And we really provided it only as a courtesy      15 because you made a request that had, in fact, requested      16 it, if I recall correctly, from the first hearing that I      17 attended in Delaware with Mr. Kreisman, and that's where      18 it was produced.</p> <p>19 SPECIAL MASTER POPPITI: And you say that in      20 your response.</p> <p>21 MR. MERIDETH: Yes, sir.</p> <p>22 MS. HO: Just to clarify, Your Honor.</p> <p>23 MR. AMBROZY: Let me finish, please.</p> <p>24 SPECIAL MASTER POPPITI: Miss Ho is</p>	<p>1 the date, but I know that I established a date      2 subsequent to a fact discovery where if you didn't think      3 you had what you needed, you could make an application.      4 Somebody remind me of the date, that would be helpful.</p> <p>5 This is not cleanup. If there is -- and I      6 am satisfied, unless somebody can show me somewhere in      7 the record where there is an application for the      8 correlation data that you are now requesting, I am happy      9 to look at that. If you can show me some agreement,      10 other than the agreement that was forged between      11 Mr. Merideth and Mr. Kreisman, I am happy to look at      12 that. But absent that, there is nothing for me to      13 consider other than the application, which is denied.</p> <p>14 MR. AMBROZY: Your Honor, if I may. I was      15 asking Miss Ho to re-send whatever Mr. Kreisman produced      16 in Delaware so that I can make sure we are all on the      17 same page.</p> <p>18 SPECIAL MASTER POPPITI: Miss Ho</p> <p>19 MS. HO: Sure. We will be happy to do that,      20 Your Honor.</p> <p>21 SPECIAL MASTER POPPITI: Okay. Thank you.</p> <p>22 MR. AMBROZY: Thank you, Your Honor.</p> <p>23 SPECIAL MASTER POPPITI: Now, let me make a      24 comment with respect to what I have numbered 37, which</p>

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<p>1 is the defendants' request for 30(b)(6) deposition of      2 LPL, and we will go from there      3 I think it's fair to say that, unless      4 somebody takes issue with this, and I am happy to hear      5 you on it, that, essentially, what I am being asked to      6 do in terms of the work through this is I think I am      7 being asked to be part of a meet and confer process in      8 the sense there hasn't been a notice that can be tested;      9 is that a fair comment?</p> <p>10 MR MERIDETH: Yes, Your Honor, I believe it      11 is</p> <p>12 MS ROMAN: I agree that that is fair, but I      13 would add that it's sort of --</p> <p>14 SPECIAL MASTER POPPITI: I am not suggesting      15 that's a problem.</p> <p>16 MS ROMAN: Right Okay</p> <p>17 SPECIAL MASTER POPPITI: I want to make sure      18 everybody agrees with -- not make sure that you agree      19 but have some understanding as to whether you agree with      20 that initial proposition</p> <p>21 MS ROMAN: There has been no notice served,      22 that's correct</p> <p>23 SPECIAL MASTER POPPITI: LPL, do you agree      24 with my characterization of that?</p>	<p>1 correct</p> <p>2 SPECIAL MASTER POPPITI: So, what I would      3 like to do, very briefly, I'd like you to make whatever      4 record, other than what you have made in here in paper,      5 of the 30(b)(6) deposition and whether or not there      6 should be one permitted to go forward</p> <p>7 And let me ask you to frame your respective      8 remarks against what I expect should have been      9 relatively clear on a number of different occasions when      10 the subject came up, what's going to happen after claim      11 construction and what's going to happen as we see      12 additional production that, for whatever reason, was not      13 forthcoming earlier; is that fair? We have had that      14 discussion before</p> <p>15 MS ROMAN: Yes, Your Honor</p> <p>16 MR MERIDETH: Tatung agrees as well</p> <p>17 MR CHRISTENSON: Yes, Your Honor</p> <p>18 SPECIAL MASTER POPPITI: And I'd like to      19 know whether you agree with me that each time that      20 subject was broached, I took the opportunity to say that      21 if, depending on the circumstances, if there is a need,      22 based on new information, based on claim construction,      23 you make the application because I would be open to      24 considering the application</p>
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<p>1 MR CHRISTENSON: Just so that I am clear, I      2 think what you are suggesting is that there is not a      3 formal notice that is the subject of a formal motion?</p> <p>4 SPECIAL MASTER POPPITI: Right</p> <p>5 MR CHRISTENSON: But, rather, we are      6 talking about proposed deposition topics?</p> <p>7 SPECIAL MASTER POPPITI: That's correct</p> <p>8 MR CHRISTENSON: Obviously, we have a      9 dispute about those topics and also about whether there      10 should be any deposition</p> <p>11 SPECIAL MASTER POPPITI: Correct One      12 should be driving the other, but that's not the posture      13 that we are really in, and what I think you are looking      14 for is for me to be somewhat involved in these      15 discussions except for asking me whether there should be      16 a 30(b)(6) in the first instance; correct?</p> <p>17 MS ROMAN: I am actually not certain I      18 understood</p> <p>19 SPECIAL MASTER POPPITI: Well, there is an      20 application for a 30(b)(6) deposition That is opposed      21 If we get beyond that, then we really are into a meet      22 and confer or some discussion about the parameters of      23 the 30(b)(6)</p> <p>24 MS ROMAN: Yes, Your Honor That's</p>	<p>1 I don't know if they are my exact words and      2 I really didn't think it was a good use of my time and      3 your resources to go back and comb through the      4 transcripts when we have broached that issue</p> <p>5 Is that a fair characterization of what you      6 think I suggested when we had these conversations      7 before?</p> <p>8 MR CHRISTENSON: Your Honor, I think I      9 clearly agree with you, Your Honor, that you have, in      10 the past, indicated that there would be, potentially, an      11 issue with respect to depositions of LPL based on      12 supplemental discovery</p> <p>13 I do think that -- what I am not clear about      14 is when those discussions occurred I think those      15 discussions may have occurred after LPL had already been      16 deposited, and the only reason I point out that timing is      17 because, obviously, the defendants went forward, took      18 the discovery that they took from LPL LPL went forward      19 with the defendants' depositions and took deposition      20 discovery that was extensive from the defendants as      21 well, and we all did that with a, you know, with the      22 existing document productions that we had from each      23 other at the time of the depositions</p> <p>24 And I think it is important to note that we</p>

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<p>1 have had voluminous supplemental production from all of      2 the defendants in this case after depositions, after the      3 close of discovery</p> <p>4 SPECIAL MASTER POPPITI: I am mindful of      5 that</p> <p>6 MR CHRISTENSON: And we have received      7 documents that we would have used in those depositions      8 and would have liked to have used in those depositions</p> <p>9 I just want to make sure that that's part of      10 the consideration here, and I think it's an important      11 point, but there is no question, Your Honor, that you      12 have, when this issue has surfaced, you have indicated      13 that you would consider, at least, further deposition      14 testimony</p> <p>15 SPECIAL MASTER POPPITI: Okay. And with      16 that backdrop, let me hear what you have to say, please</p> <p>17 MR CHRISTENSON: Yes, Your Honor. Would      18 you like to hear from LPL first?</p> <p>19 SPECIAL MASTER POPPITI: No. I'd like to      20 hear from the applicant</p> <p>21 MR CHRISTENSON: Yes, sir.</p> <p>22 MS ROMAN: Your Honor, I don't think I need      23 to go into too much greater detail than what we have      24 already put forth in our previous letter briefs or</p>	<p>1 this, your application, although there has even been      2 some discovery, very recently, that may form the basis      3 of some questions that you want to ask, it is really      4 driven by the claim construction as it presently exists?</p> <p>5 MS ROMAN: Correct, Your Honor</p> <p>6 SPECIAL MASTER POPPITI: And until that      7 claim construction occurred, there were applications      8 that impacted on the scope of some of the discovery that      9 occurred earlier in those depositions?</p> <p>10 MS ROMAN: Yes, Your Honor</p> <p>11 SPECIAL MASTER POPPITI: Mr Christenson, or      12 who is going to be dealing with it, please?</p> <p>13 MR CHRISTENSON: Yes. This is Cass      14 Christenson for LPL, Your Honor.</p> <p>15 What issue would you like me to speak to      16 again, please?</p> <p>17 SPECIAL MASTER POPPITI: Just the issue as      18 to whether a 30(b)(6) deposition should go forward in      19 light of claim construction.</p> <p>20 MR CHRISTENSON: Your Honor, when you say,      21 "in light of claim construction," certainly, the claim      22 construction had not been resolved at the time of LPL's      23 original deposition, that, of course, you know, by the      24 same token, it had not been resolved at the time we</p>
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<p>1 status reports from I believe it was July 27th and      2 August 3rd.</p> <p>3 The deposition goes hand-in-hand with the      4 additional document discovery that Your Honor ordered to      5 be produced. It's effectively not a new deposition or a      6 new discovery. It goes hand-in-hand with the discovery      7 that was already ordered as proper discovery. It was      8 simply discovery that, based on the objections that Your      9 Honor sustained from the early on state of the discovery      10 of this case, could not be had until after the claim      11 construction order had been submitted.</p> <p>12 We think that the deposition that we are      13 looking to take, regardless of the topics, but the fact      14 that a deposition has to be taken and that it has to      15 occur now as opposed to something that could have been      16 covered before the claim construction was to no fault to      17 the defendants.</p> <p>18 We certainly tried to get this information      19 in advance of the claim construction order, but it was      20 determined that that was not appropriate discovery at      21 that time.</p> <p>22 SPECIAL MASTER POPPITI: And what you have      23 done, I think, by virtue of your comments, is focused on      24 what I think is important, and I want LPL to respond to</p>	<p>1 deposited the defendants, and I think that there was an      2 understanding, and we have cited this in our, I think      3 our August 14 letter, there was an argument by ViewSonic      4 before their deposition that, during the depositions,      5 the parties should not be asking questions that were      6 intended to establish someone's position about claim      7 construction, infringement, validity, or enforceability.      8 Those are really all issues for the experts. And I      9 didn't really understand that that's something that was      10 the focus of what they wanted to do in these requested      11 depositions of LPL.</p> <p>12 What I understood they wanted to do is to      13 ask questions related to the documents that LPL recently      14 has produced.</p> <p>15 MS ROMAN: Your Honor, they can't be      16 divorced from each other. The documents that were      17 recently produced were originally not produced under      18 objection that they shouldn't be produced before claim      19 construction. And, so, now we are faced with this issue      20 of having to investigate issues and subjects and facts      21 that we couldn't have known about because we didn't have      22 access to these documents, and these documents make us      23 inquire about additional facts, not only those pertained      24 or contained within the four corners of the documents,</p>

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<p>1 there are questions that naturally arise from issues      2 that are pointed out in these documents      3 For example, LPL had maintained, during the      4 beginning of the case, that it didn't make any products,      5 and it still does, I imagine, that it didn't make any      6 products that practice the invention or that had      7 mountable fastening elements on the back of their LPL      8 LCD modules But, from our perspective, the documents      9 that have just recently been produced contradict that      10 representation</p> <p>11 It was not a fact that we had available to      12 us at the time of the deposition and we couldn't probe      13 into it, and now we'd like to probe into that</p> <p>14 SPECIAL MASTER POPPITI: Mr Christenson</p> <p>15 MR CHRISTENSON: Yes, Your Honor So, as I      16 understood what Ms Roman was saying, I think then,      17 again, it is coming back to the documents that we have      18 produced We, obviously, dispute what those documents      19 show We don't think those documents, in any way,      20 suggest that there was prior art that supports the      21 defendants' positions in this case</p> <p>22 But, again, if the question is the scope and      23 what -- I think we are now sort of focusing on the scope      24 and whether, what, exactly, should be included in any</p>	<p>1 of our witnesses were deposed in March and April and      2 then we postponed some other depositions until June;      3 however, we did endeavor to collect and gather and      4 review and produce all of the documents that LPL was      5 seeking before those depositions took place And I      6 think that's distinguishable from what's going on here      7 with respect to the documents that LPL recently      8 produced They simply chose to withhold these documents      9 pending Your Honor's claim construction rulings</p> <p>10 It could have produced the documents early      11 on, but it chose to wait, and because of that, we did      12 not get these documents until about three weeks ago      13 And there are facts that we simply just did not know      14 about before the discovery cutoff and at the time that      15 we were deposing LPL's witnesses</p> <p>16 SPECIAL MASTER POPPITI: Mr Christenson,      17 isn't that a fair characterization of the record?</p> <p>18 MR CHRISTENSON: Your Honor, it's not a      19 fair characterization because LPL, in fact, produced      20 voluminous discovery early in the case that, in many      21 respects, we produced discovery on issues that applied      22 to everyone before the defendants did</p> <p>23 It's not correct, Your Honor --</p> <p>24 SPECIAL MASTER POPPITI: I am happy to have</p>
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<p>1 deposition But with respect to whether there should be      2 a deposition, again, our position is that they went --      3 the depositions went forward as to everyone in the same      4 time period and with partial document productions, for      5 various reasons, that, based on various objections that      6 all the parties made, and everybody was trying to get      7 other documents, we were trying to get OEM documents      8 from ViewSonic, we were trying to get discovery from      9 Tatung, I mean, this is an issue that everyone was      10 facing and we all took the depositions as best we could      11 And there was no suggestion at that point that the      12 defendants shouldn't have to depose LPL</p> <p>13 So, we don't think it's appropriate for LPL      14 to be singled out and re-deposed based on supplemental      15 document production</p> <p>16 MS HO: Your Honor, if I may comment on a      17 couple of issues quickly?</p> <p>18 SPECIAL MASTER POPPITI: Please</p> <p>19 MS HO: First of all, I don't think that's      20 an accurate representation of the discovery that has      21 taken place in this case</p> <p>22 What we had tried to do is to produce all of      23 our supplemental document productions before the      24 depositions If Your Honor will recall, we did -- some</p>	<p>1 a hearing on each new document that was produced and      2 make a determination as to whether it could have been      3 produced earlier or whether there was a choice If you      4 want me to have that hearing, we will have it, we will      5 have it next week, and we will have it live in the      6 courtroom</p> <p>7 Are you suggesting to me that these      8 documents were unknown to you at the time when they      9 would have been considered timely production?</p> <p>10 MR CHRISTENSON: No, Your Honor, I am not      11 suggesting that</p> <p>12 What I am suggesting is we had objections      13 that we asserted, there was motion practice, and --</p> <p>14 SPECIAL MASTER POPPITI: I understand motion      15 practice But I also understand choice And what I am      16 asking you is: Were these documents -- maybe I should      17 be more precise -- were these documents, each and every      18 individual one of them, the subject of motion practice      19 and the reason why you didn't produce any one or all of      20 them because I ruled that they did not have to be      21 produced at the time and you had the umbrella of a Court      22 order?</p> <p>23 MR CHRISTENSON: Your Honor, I want to make      24 sure I understand what you are asking If what you are</p>

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<p>1 asking is: Could we have produced these documents      2 earlier than we did?, then the answer is yes      3           SPECIAL MASTER POPPITI: And there was no      4 Court order that said you had an umbrella?</p> <p>5           MR CHRISTENSON: That is true, Your Honor      6           SPECIAL MASTER POPPITI: So it was choice      7 And, if you will, and I don't mean to suggest this sound      8 as pejorative, it was strategy It's not that you      9 couldn't get to it I think you just told me you knew      10 they existed</p> <p>11          MR CHRISTENSON: I understand what you are      12 saying, Your Honor</p> <p>13          SPECIAL MASTER POPPITI: And because of      14 that, I am going to permit a proposed 30(b)(6)      15 deposition</p> <p>16          And now we will do what I think it's      17 important to set out to do, and, that is, to get through      18 the topics Maybe, just maybe, it may be helpful if we      19 talk about some overarching principles here</p> <p>20          MS ROMAN: Your Honor, that's exactly what      21 I had in mind as well Mr Miller and I have sort of      22 been trying to work towards that goal over the last      23 couple of days And, if I might, I'd like to -- I mean,      24 one thing that was clear to me from the last time --</p>	<p>1 them, we could sharpen them, but I don't think that      2 that's going to serve anyone's purpose if there are some      3 overarching principles of how this deposition should go      4 forward</p> <p>5           So, if you think it's going to be helpful to      6 have me participate, I will</p> <p>7           MS ROMAN: I think it would simply because      8 there might be a couple of these overarching issues that      9 we still don't have an accord on to speak to the sense      10 of the overarching issues, so it would be helpful for      11 you to be informed on them as well</p> <p>12          SPECIAL MASTER POPPITI: Does anyone      13 disagree?</p> <p>14          MR CHRISTENSON: Your Honor, I agree with      15 that I think that, you know, going in the logical      16 sequence of starting with the premise that you just      17 established, which is there will be a further      18 deposition, I think it makes sense to have your input on      19 the next logical issue, which is the general subject      20 matter and scope, rather than getting into the word      21 level, which is what Miss Roman was suggesting, or      22 subject areas, I am not sure what they are, but I do      23 think it would be helpful to have your input</p> <p>24          SPECIAL MASTER POPPITI: Let's do it, then,</p>
<p>1 when ViewSonic had a motion for a protective order on      2 its deposition, LPL was very good at making it      3 understood that even though the literal words of the      4 topics might be written very broadly, they weren't going      5 to waste time diving into subjects that were irrelevant      6 for purposes of the case or waste time going over      7 cumulative issues, and -- but that's hard to capture      8 that when you are writing out these topics</p> <p>9           And what we have tried to do over the last      10 couple of days is look through the topics and the      11 documents that have been produced to see if we could      12 identify what are the core issues, or, like, the spirit      13 of the deposition we are seeking And if I can -- I      14 have come up with four of them, and if I could just put      15 those out there for the parties, it might help to serve      16 as, to use Your Honor's word, an "umbrella" under which      17 these topics fall and the parameters of the topics that      18 we have proposed</p> <p>19          SPECIAL MASTER POPPITI: I am happy to      20 participate in that if you all think it would be helpful      21 to have me do that, but what has just been said is what      22 I expect should be done</p> <p>23          I mean, you all know that any one of us      24 could take these topics and either, we could re-frame</p>	<p>1 please</p> <p>2           MS ROMAN: The first issue relates to the      3 mechanical structure topics, and what we are really      4 seeking are facts concerning the fastening elements on      5 LPL's LCD products, or modules, as I will sometimes      6 probably call them, such as the structure, function, and      7 location of those fastening elements which would apply      8 to both the products that were prior art products made      9 before the U S patent filing date and post products      10 And this overarching issue, I believe, hits topics one      11 and two in our revised proposed topics, and perhaps also      12 five</p> <p>13          So, it's not every structure, every assembly      14 of the module, the layers of the panel, the layers of      15 the back light, and those issues The case is really      16 about the fastening elements, whether they are located      17 on the back, the front, or the side, and the structure      18 and function of those elements regardless of whether      19 they are used for mounting But that's the focus of the      20 first overarching issue is the facts concerning the      21 fastening elements on the products</p> <p>22          The second --</p> <p>23          SPECIAL MASTER POPPITI: Let's go one at a      24 time</p>

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<p>1 MS ROMAN: Okay      2 MR CHRISTENSON: Your Honor, as I      3 understood what Miss Roman was saying, she is saying      4 that those generally relate to topics one and two. I      5 won't get into the specifics of those topics because I      6 understand we are going to focus right now on general      7 categories</p> <p>8 SPECIAL MASTER POPPITI: Yes      9 MR CHRISTENSON: With respect to the      10 category, the "category" being structure, function,      11 location with respect to fastening elements, I think      12 that that is a relevant subject matter generally with      13 respect to this case</p> <p>14 We have had discussions in meet and confer      15 about to what extent LPL may or may not be able to      16 answer those types of questions, but I think that that,      17 generally, the subject matter is relevant, Your Honor</p> <p>18 SPECIAL MASTER POPPITI: Okay      19 MR CHRISTENSON: I think that the bigger      20 questions become, you know, what time period is really      21 the relevant time period and what scope of products?      22 Those are some of the more, I think, important issues      23 that would need to be resolved there</p> <p>24 SPECIAL MASTER POPPITI: Well, then,</p>	<p>1 are probable      2 MR MERIDETH: I mean, I would like to have      3 an understanding, while we are here, and perhaps some      4 guidance, as to the relevant time periods. We,      5 obviously, believe that the discovery requests and the      6 questions that we asked the 30(b)(6) witness, Mr Kim,      7 were appropriate going back at least until 1996, when      8 this Lucky Gold Star product was manufactured      9 If you have a disagreement with that, we      10 ought to know about that</p> <p>11 MR CHRISTENSON: Our feeling is, Your      12 Honor, that the relevant time period would be -- the      13 most relevant time period would be the time period that      14 is before 1999 because that could potentially relate to      15 the validity argument that the defendants are making</p> <p>16 SPECIAL MASTER POPPITI: So you disagree      17 with Mr Merideth in terms of prior to 19 -- you said      18 1996, you said before 1999 1996 is --</p> <p>19 MR CHRISTENSON: I don't know specifically,      20 Your Honor, when certain products were made or what,      21 specifically, Mr Merideth had in mind, so I can't say,      22 for a particular product, what the particular time      23 period would be, but I think the early time period is      24 the relevant time period</p>
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<p>1 certainly with respect to the first category, why don't      2 you talk about the two issues you just raised and see if      3 you can either come to some resolution or if I can      4 provide some guidance?</p> <p>5 MR CHRISTENSON: Are you suggesting we have      6 a meet and confer, Your Honor? I am not sure what you      7 would like me to do</p> <p>8 SPECIAL MASTER POPPITI: I am suggesting if      9 you would like to do that now, please do. If you think      10 it would be better use of everyone's time to do it in a      11 meet and confer, that's fine, but I want to be able to      12 resolve these issues now. By "now," I mean today,      13 tomorrow, Monday kind of thing</p> <p>14 MR CHRISTENSON: What I would prefer to do,      15 Your Honor, would be to go through the four general      16 subject areas since I haven't heard what they are yet.      17 I assume I know generally what they are because they      18 probably match up to the topics that were proposed, but      19 if we could go through the general topics and see to      20 what extent we can agree on those. If we don't agree,      21 maybe you could tell us what the answer is</p> <p>22 SPECIAL MASTER POPPITI: Okay      23 MR CHRISTENSON: And then maybe tomorrow we      24 can have a meet and confer on those subject matters that</p>	<p>1 SPECIAL MASTER POPPITI: Mr Merideth      2 MR MERIDETH: Yes. Well, the one product      3 that they have disclosed is the Lucky Gold Star product      4 that is attached to one of our letters to Your Honor,      5 one of the supplemental submissions</p> <p>6 SPECIAL MASTER POPPITI: I am aware of it      7 MR MERIDETH: Which is the 1996 Lucky Gold      8 Star product</p> <p>9 SPECIAL MASTER POPPITI: Right      10 MR MERIDETH: We had asked Mr Kim about      11 the previous products that it used rear mounting      12 fastening elements, and he claims that there were none.      13 We certainly believe now that a 30(b)(6) witness ought      14 to be available to testify who has knowledge of the      15 fastening methods, particularly rear mounting elements,      16 that existed on products prior to 1999, going back at      17 least until 1996, and if there were rear mounted      18 products before then, those products</p> <p>19 I will be blunt --</p> <p>20 SPECIAL MASTER POPPITI: Based on the      21 production of the Lucky Gold Star document, I am      22 satisfied that it should go back to 1996, and if there      23 are other products before 1996, it should go back to      24 identify that as well, to discuss that as well. So that</p>

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<p>1 gives you the back end      2 MS ROMAN: Your Honor, I will speak to the      3 front end, if I might, briefly      4 SPECIAL MASTER POPPITI: Please      5 MS ROMAN: The reason that the product's      6 post filing of the U.S. application are relevant and      7 that that location of the fastening elements on those      8 products are relevant goes to the issues of commercial      9 success and the calculation of the proper reasonable      10 royalty      11 They are very specific factors, the impact      12 on the market, the value on the product, the demand for      13 products that have fasteners used for marketing and      14 particular purposes, and one argument that's been made      15 in previous cases by LPL is whether or not there is a      16 cost savings associated with having a fastening element      17 in a certain location or a mounting element in a certain      18 location. So, we need to inquire into the scope and      19 structure and function and location of the fastening      20 elements on those post prior art products for purposes      21 of commercial success and damages      22 SPECIAL MASTER POPPITI: Mr Christenson      23 MR. CHRISTENSON: Your Honor, I think this      24 really, you know, brings to the floor some of the</p>	<p>1 at the deposition, what would happen, I suspect, is they      2 would ask about two or three products that they really      3 think are relevant      4 And, so, it really doesn't make sense to me      5 to have a witness prepared on all the topics, and I      6 think it's inconsistent with their prior position that      7 they shouldn't have to do that      8 SPECIAL MASTER POPPITI: Well, whether it's      9 -- and maybe what we are talking about is the rule of      10 thumb that you just identified, this is not in the      11 nature of a ruling, my question is: Can't you, for      12 purposes of noticing and for purposes of letting the      13 witness be prepared, narrow the scope, and if you can't,      14 why can't you?      15 MS ROMAN: Your Honor, this might be one of      16 those issues where we can look into it further over the      17 course of the evening, but, certainly, one reason that      18 it's difficult to narrow the scope to specific      19 identified products, Your Honor might recall that when      20 we dealt with the issue of trying to reduce the burden      21 to LPL for the production of the subsequent documents      22 for the post prior art products, we tried to come up      23 with a scheme that gave us the top 10 percent selling      24 products as identified by side mounting, front mounting,</p>
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<p>1 concerns that we have about the topics, and when we      2 talked about commercial success and damages, those are      3 topics that were covered at length in the previous      4 depositions. I don't think there is anything in these      5 recently produced documents that changes anything in      6 that landscape.      7 I think it's important to note, Your Honor,      8 that when we were speaking to depose ViewSonic,      9 ViewSonic took the position, in resisting testimony,      10 that they had some 200 products, it would be burdensome      11 to prepare a witness to testify about all those      12 products, and the products were largely not relevant,      13 especially if they were not accused      14 And now they are turning around and making      15 the complete opposite argument, that everything is      16 relevant because maybe it goes to commercial success.      17 Well, if it goes to commercial success, they are going      18 to have to make an argument that that practices the      19 invention. And I don't think that -- there are very few      20 products so far that they have identified that they are      21 even going to argue practice the invention, yet, they      22 want all 100 plus products to be the subject of      23 potential testimony, and we would have to prepare a      24 witness on all of those products, Your Honor. And then,</p>	<p>1 or rear mounting      2 SPECIAL MASTER POPPITI: Yes, I remember      3 MS ROMAN: LPL was unable to accept that      4 offer of compromise because they represented that they      5 don't categorize their products that way and they would      6 have no way of knowing whether a particular module is      7 front or side or rear mounted. I think they might have      8 even gone so far as to represent that it was because      9 they don't dictate the mounting but their customers do      10 it      11 So, the difficulty we have is we have been      12 produced -- instead, what we ended up with is a      13 production of the top 10 percent selling products,      14 period, and us going through and trying to ascertain      15 where fastening elements are located based on that      16 production. It certainly doesn't mean that that is the      17 full scope of products that have fasteners that are used      18 for rear mounting or fasteners that are used for side      19 mounting or for front mounting. And to the extent that      20 there are products that were top sellers that have rear      21 mounting, certainly, that does go to commercial success      22 but it might not have been swept into the production      23 It might have been a top seller for rear mounting but it      24 might have not fallen within the scope of the top 10</p>

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14 (Pages 50 to 53)

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<p>1 percent of best selling products, period      2 For our expert to do a proper comparison of      3 whether a product has achieved commercial success, they      4 need to be able to compare the sales of the products      5 that have fasteners on the back to sales of products      6 that have fasteners on the side or the front      7 SPECIAL MASTER POPPITI: You would agree,      8 would you not, that -- and I understand what you just      9 said and what you just said makes sense to me,      10 Mr Christenson, it does; at the same time, you, at some      11 point in approaching the day of deposition, and this is      12 really something that would be in the nature of forging      13 a different agreement, you will have made some judgment      14 as to which of the products you will be questioning the      15 witness about; is that fair?</p> <p>16 MS ROMAN: I think it's fair given the pure      17 nature of time restrictions, Your Honor, yeah      18 SPECIAL MASTER POPPITI: So, is it not fair      19 to consider establishing a date by which you will have      20 made that determination in a time frame that's      21 sufficient to say to LPL, This is what we are going to      22 be asking about; we agree to limit ourselves to this;      23 prepare your witness?      24 MS ROMAN: Your Honor, I certainly would be</p>	<p>1 focus on That's too late for it to serve any value in      2 terms of having a witness focused on the production that      3 you are going to be focused on      4 And what I am hoping to look for is some      5 point in time, clearly, before the deposition, when you      6 can identify those that you will be focused on Perhaps      7 there should be some understanding that if, during the      8 course of further investigation, you are able to      9 identify others, that it would be a good faith      10 representation you couldn't do it before, and you will      11 give that information to LPL in advance of the      12 deposition?</p> <p>13 MS ROMAN: Yes, Your Honor That would      14 actually make it a little bit easier to accomplish.      15 SPECIAL MASTER POPPITI: Mr. Christenson,      16 does that make any sense just in terms of seeing if      17 there is some path of identification before so you can      18 prep the witness?</p> <p>19 MR CHRISTENSON: Your Honor, certainly, I      20 think that makes a good deal of sense because the      21 alternative is we end up, you know, trying to prepare      22 someone on information that isn't going to be of any      23 interest to anyone, and then that's going to minimize      24 the time we have to prepare for things that may be</p>
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<p>1 happy to look into that over the evening      2 The only difficulty I have with agreeing to      3 do it specifically is that I haven't, unfortunately,      4 been the one reviewing the recent document production      5 I am just not certain if the quality of the documents      6 that have been produced allow us to identify model      7 numbers I know that's been an issue with some of the      8 documents, and, so, to give you a specific answer to      9 that question is a little difficult      10 The other concern I have is that I guess      11 what reaching that agreement would require us to do is      12 to agree that we are going to forego discovery beyond      13 what we have been able to ascertain from the documents      14 that have been produced which have already, admittedly,      15 been limited to the top 10 percent selling products      16 regardless of where the mounting elements happen to be      17 located      18 And, so, I guess that's something that I      19 would just, I'd ask Your Honor's permission to look      20 into?</p> <p>21 SPECIAL MASTER POPPITI: Absolutely What      22 am doing, by virtue of making this suggestion, is,      23 certainly, the hour before you go into the deposition,      24 you are going to know which products you are going to</p>	<p>1 more interested in I think it's mutually beneficial to      2 understand what, you know, what should this deposition      3 really be about And if we know that, we can better      4 prepare a witness      5 SPECIAL MASTER POPPITI: If you are both      6 willing to do it against, you know, within that      7 framework, understanding that it may be important to      8 build in a safety net, if you will, knowing that safety      9 net is not for the purpose of sandbagging, I am hoping      10 you can do that      11 MS ROMAN: Yes, Your Honor I can let      12 Mr Christenson know by tomorrow morning how soon I      13 could get him the list of the post 1999 products that      14 would be the focus for them to start preparing based on      15 the information that we have available to us now      16 SPECIAL MASTER POPPITI: Okay      17 MS ROMAN: And, hopefully, I will be able      18 to get the list of products to him shortly thereafter      19 It's just a matter of coordinating with the other      20 attorneys      21 SPECIAL MASTER POPPITI: Okay That's good      22 Should we move onto the next issue?      23 MS ROMAN: Yes The next area of the      24 deposition issue?</p>

## Hearing

15 (Pages 54 to 57)

Page 54	Page 56
1       SPECIAL MASTER POPPITI: Yes, please	1       that
2       MS ROMAN: That relates to the statements	2           Let's talk about that topic, then, from
3       that LPL or its patent agents made to the patent office	3       LPL's perspective
4       regarding the existence of fasteners on the back of the	4           MR CHRISTENSON: Your Honor, the broad
5       LCD devices. And this is, for purposes of the	5       issue, as I understood it, was, quote, statements by LPL
6       deposition topics that have been submitted, it goes to	6       to the Patent Office, end quote, and then there is a
7       topic seven	7       separate issue, I think, which are their specific topics
8       SPECIAL MASTER POPPITI: Let me just -- just	8       and subtopics that would have language that fall under
9       give me one second, please. I have certainly noted that	9       that broad category
10      for purposes of your seeing how I view that, that, if	10      With respect to broad category, statements
11      you will, that's a new topic; fair?	11      by LPL to the Patent Office, as Miss Roman predicted,
12      MS ROMAN: I am sorry, Your Honor, "new" as	12      our position is that, clearly, that was the subject of
13      in it was not part of any deposition notices? Because I	13      their original depositions, and this is a classic
14      don't think that's accurate	14      example, in our view, of where they are simply reopening
15      SPECIAL MASTER POPPITI: That's not	15      discovery on closed issues
16      accurate	16      I mean, there is no question that they had
17      MS ROMAN: I would say that the topic, as	17      the opportunity, and I think they exercised, at least in
18      it's been written there, I can understand LPL seeing it	18      part, the opportunity to go through with LPL's witnesses
19      as potentially getting information that was part of the	19      before, things about -- things related to what were
20      previous deposition	20      submitted to the Patent Office during the prosecution of
21      SPECIAL MASTER POPPITI: Counsel, no, I was	21      the patents-in-suit. And some of the subtopics referred
22      mistaken. I was looking at another topic	22      to specific documents; for example, there is a reference
23      MS ROMAN: Okay	23      to an amendment filed in January of 2001. You know, I
24      SPECIAL MASTER POPPITI: Thank you	24      mean, that amendment is what it is. They have had it
	Page 57
1       MS ROMAN: So, what we are trying to do	1       all along. They had the opportunity to ask about it
2       with this scope of the deposition issue is to say, We	2       with the witness. If they didn't do that, that was for
3       are not looking to go back over information that's	3       reasons they decided, but I don't see a need here or
4       already been gleaned from the previous deposition about	4       connection here to the recent document production
5       the prosecution of the patent, but, at least from	5           I think this is a -- at least if you look at
6       ViewSonic's view, there is this issue of statements made	6       the way it's worded, it's just going right back to the
7       to the Patent Office regarding the existence or the	7       prior topics, and that's all the discovery that should
8       non-existence of fasteners on the back of LCD devices	8       be closed
9       that were known to LPL, particularly its own modules,	9       SPECIAL MASTER POPPITI: Let me make this
10      and we have discovered this information about the	10      observation and see if this is helpful: The fact that
11      fasteners being on the backs of these devices in light	11      it is, or the fact that you can draw a line to each word
12      of this recent production, which is what leads to the	12      in the prior notices doesn't, at first blush, bother me
13      need to inquire into that subject area	13      if what you are doing is saying. With respect to those
14      And I believe, and I will let Tatung speak	14      topics or subtopics, I am going to be questioning the
15      to this issue, but I believe it might also relate to a	15      witness with respect to those topics and subtopics that
16      couple of the topic issues that they have proposed	16      have been covered before as it relates, as each one of
17      I am not sure if my overarching issue is	17      them relates to new production
18      broad enough to sweep that in, but that's --	18      So, if it relates to the new production, I
19      MR MERIDETII: I believe it is	19      am not troubled by the fact that it's the same topic
20      SPECIAL MASTER POPPITI: It looks like it	20      area. If it relates to the new production and it is
21      would be	21      is -- and I don't know whether it is because I haven't
22      MS HO: And that would include on topics	22      heard you say it this way -- if it's meant to say you
23      pertaining to the NEC litigation	23      said this before in light of the new production, what
24      SPECIAL MASTER POPPITI: Right. I respect	24      are you saying?

## Hearing

16 (Pages 58 to 61)

Page 58	Page 60
<p>1 MS ROMAN: Your Honor, I think that that      2 does capture what I was trying to say when I offered the      3 scope as statements made regarding the existence of      4 fasteners on the back of LCD devices      5 If, in light of the new production --      6 SPECIAL MASTER POPPITI: Let me approach it      7 this way I am sorry I just interrupted you      8 MS ROMAN: That's quite all right      9 SPECIAL MASTER POPPITI: Did you want to      10 finish?      11 MS ROMAN: You have heard the point      12 already.      13 SPECIAL MASTER POPPITI: It seems to me if      14 you had the deponent in the chair and all of this      15 production was at your hands at the time you first had      16 the deponent in the chair and you discussed with the      17 deponent the process of the prosecution history, and you      18 got through all of that, you can certainly, I would      19 think you would agree with me, reach into your files,      20 pull out a document, and begin to question the witness      21 with respect to that particular document in light of      22 what was said about prosecution history; does anyone      23 disagree with that?      24 MR CHRISTENSON: Your Honor, are you</p>	<p>1 deposition, usually an objection on the grounds of      2 relevancy, you just object and you move on for the      3 record      4 I think, in the context of this deposition,      5 it's going to be important, if you agree with this      6 approach, that I be available for a telephone call if,      7 in fact, the deposition strays from the new production      8 as it relates to the topics that were identified before      9 MR CHRISTENSON: Yes, Your Honor I think      10 that's going to be very important I think that's      11 appropriate so that we have the right focus      12 SPECIAL MASTER POPPITI: Ms Roman, do you      13 agree or disagree?      14 MS ROMAN: Absolutely, Your Honor I agree      15 with that position      16 SPECIAL MASTER POPPITI: And in light of      17 that, is there agreement, then, with respect to the      18 spirit of the deposition that we just talked about?      19 MR MERIDETH: Your Honor, there is only one      20 other point, just to be crystal clear, it not only is      21 what was represented to the Patent Office but also what      22 was not represented to the Patent Office in light of LPL      23 products in particular      24 SPECIAL MASTER POPPITI: I understand that</p>
<p>1 referring to a recently produced document?      2 SPECIAL MASTER POPPITI: I am suggesting      3 that at the time that we are doing this, you got      4 everything and you have all the production with you in      5 the room, you have walked the witness through topics      6 relating to prosecution history process of the      7 patents-in-suit, and then you are going to want to talk      8 to the deponent about a specific product, a specific      9 document; you can do that; right?      10 MR CHRISTENSON: Absolutely, Your Honor      11 If there is a relevant document or relevant question,      12 absolutely      13 SPECIAL MASTER POPPITI: And my point is;      14 The only difference is here, the document that you      15 didn't have at the desk when you could have done that,      16 you do have it now. So long as the questions relate to      17 that new document, I think it's permissible      18 MR CHRISTENSON: And Your Honor --      19 SPECIAL MASTER POPPITI: If you are going to      20 go back and redo the prosecution history in a vacuum, if      21 you will, or if are you are going to go back and redo      22 the deposition because it wasn't done right the first      23 time, then that's not proper. And I realize, and I      24 think I said this when we were talking about the Rudich</p>	<p>1 And I would expect Mr Christenson would understand that      2 as well      3 MR CHRISTENSON: Yes, Your Honor      4 Obviously, we would have -- depending on the question,      5 if it calls, for example, for some kind of privilege, we      6 would have whatever objections would apply, we would      7 raise those, but I understand the subject matter and I      8 think we can accept that.      9 SPECIAL MASTER POPPITI: Is that sufficient      10 to move on?      11 MS ROMAN: I think, Your Honor, yes It's      12 sufficient for ViewSonic      13 SPECIAL MASTER POPPITI: Okay      14 MR CHRISTENSON: The only other question we      15 didn't address, Your Honor, there are, I think, a couple      16 of subtopics that Tatung has proposed that I am not sure      17 if they are saying those subtopics come under this --      18 SPECIAL MASTER POPPITI: I think H and I;      19 correct?      20 MS ROMAN: Yes, Your Honor They might      21 fall under the umbrella of my final two issues      22 SPECIAL MASTER POPPITI: Do you want to tell      23 us what those are, then?      24 MS ROMAN: And then we can see, yes</p>

## Hearing

17 (Pages 62 to 65)

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<p>1        The next issue relates to the facts  2        concerning the sales, marketing, advertising of LPL's  3        LCD modules for the prior art products. It's important  4        for showing that the products qualify as prior art,  5        whether there were instructions provided to customers or  6        requests made by customers for mounting those products,  7        whether any features were touted or advertised to  8        customers as key features or not advertised to  9        customers. That requires, also, inquiring into the  10      finished products into which the LPL modules were  11      mounted so it can be determined how they were actually  12      mounted.</p> <p>13      And then, for the later products, the  14      inquiries are similar, but the reasons, as we see it,  15      would be that these sales relate to evaluating, again,  16      the commercial success, and, again, trying to ascertain  17      whether that commercial success is due to the mounting  18      structure of the products.</p> <p>19      I believe this hits topics three, four, and  20      five.</p> <p>21      MR. MERIDETH: I would add to that LG  22      products, during the period of time that LPL was a  23      division of LGE, which covers the 1996 through 19 --  24      through the fall of 1999 period, but I believe it to be</p>	<p>1        day one or some subset of that which would at least  2        number 100 or more products.  3        In either event, Your Honor, the topics, on  4        their face, are extraordinarily broad, and we cited some  5        examples of that in our papers. They don't focus on  6        relevant features of the products. They are very broad  7        brushed and open up a witness or a deponent to questions  8        that go to any aspects, really, of the products over  9        this entire time period of more than 10 years.  10      So, it's not relevant to anything, it's not  11      reasonably calculated to lead to admissible evidence,  12      and it's burdensome.</p> <p>SPECIAL MASTER POPPITI: Remember what we  14      are doing. I am not so much looking at the precise  15      language of these topics as I am about the categories.</p> <p>MR. CHRISTENSON: I apologize, Your Honor  17      I was getting a little bit more into the specifics.  18      With respect to the category, itself, we  19      have produced sales information, sales summaries that go  20      by product by time period for the time period that has  21      been requested in this case.</p> <p>SPECIAL MASTER POPPITI: Right.</p> <p>MR. CHRISTENSON: And that's really, you  23      know, the information that exists. If there are</p>
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<p>1        the end of the year 1999 period, so that we don't have  2        this problem, for example, with regard to the Lucky Gold  3        Star product. Oh, we don't have any sales information  4        about that because that's an LG product, when, in fact,  5        LPL was the LG division that was responsible for that  6        product during that time.</p> <p>7        MR. CHRISTENSON: That's not correct, Your  8        Honor. And, first of all, with respect to what  9        Mr. Merideth just said, that's a topic that's nowhere in  10      any of the submissions before you. So he is now  11      introducing a new topic that's never been discussed with  12      us, from our point of view, and I object to even  13      discussing that topic.</p> <p>14      We have information --</p> <p>SPECIAL MASTER POPPITI: Let's get back on  16      track. Let's focus on precisely what Miss Roman  17      proposed. Mr. Merideth, I don't see that discussion in  18      the topics. We can discuss that in a moment, but let's  19      just deal with the overarching description that  20      Miss Roman just provided.</p> <p>MR. CHRISTENSON: Your Honor, in response to  22      that, the category being generally still for marketing  23      and advertising of all of LPL's products, it's not clear  24      to me whether we are talking about all products since</p>	<p>1        questions about those recently produced summaries, then  2        I think that would be a relevant scope of inquiry. But  3        to go back into all the sales summaries that we have  4        previously produced, we had a witness, Your Honor, who  5        was a high ranking executive here for two days from  6        Korea, Mr. Kim, who was very well prepared on all these  7        issues and testified for two days on all these issues.  8        And if they want to talk about sales summaries that we  9        have produced supplementally, then I think that would be  10      relevant. But it's not clear to me exactly what they  11      are saying with respect to this topic.</p> <p>MS. ROMAN: Your Honor, perhaps I can try  13      and shed a little bit more light on it.</p> <p>With respect to the later products as  15      opposed to the prior art products, because I believe  16      that's the products for which Mr. Christenson is  17      referring to when he says that they have produced sales  18      summaries, as I understand it, the sales summaries, we  19      have sales summaries that identify the product and then  20      we have that enormous document that Your Honor had the  21      pleasure of having provided to him, which was, I guess,  22      referred to as the bill of materials document.</p> <p>SPECIAL MASTER POPPITI: I have had it  24      bronzed.</p>

## Hearing

1.8 (Pages 66 to 69)

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<p>1 MR. CHRISTENSON: Makes a good gift.      2 MS ROMAN: Good paper weight certainly in      3 that form      4 As I understand it, though, the bill of      5 materials and those sales summaries, together, didn't      6 provide us the information that, in light of recent      7 document productions or the information we might obtain      8 through the deposition about the location of the certain      9 fastening elements, that they are able to tie together      10 the costs of the relevant components, such as the      11 fastening element, as compared to the cost of the module      12 overall or the cost associated with locating a fastening      13 element on the back as opposed to the front or as      14 opposed to the side      15 The documents that were produced at that      16 time, because we didn't have the technical documents and      17 information, didn't allow us to dive into those      18 inquiries</p> <p>19 SPECIAL MASTER POPPITI: Yeah.</p> <p>20 MS ROMAN: So, to the extent that -- we are      21 certainly not going to go back over sales summaries and      22 say, Okay, now, you produced this sales summary seven      23 months ago and I just want to go through again and make      24 sure that this product was sold on this date. We have</p>	<p>1 more or less, in the same boat that we were just in 10      2 minutes, 15 minutes ago when we were talking about how      3 we can identify the scope of what is going to be      4 discussed during the course of this deposition; are we      5 not back at the same point?</p> <p>6 MR. CHRISTENSON: We are, Your Honor      7 SPECIAL MASTER POPPITI: Ms. Roman?      8 MS ROMAN: Well, Your Honor, I certainly      9 think that the scope is threaded out through, perhaps,      10 the first overarching issue that we discussed. But I      11 would be happy to follow-up first thing tomorrow morning      12 just to make sure we are clear on it</p> <p>13 SPECIAL MASTER POPPITI: It's going to serve      14 no one's purpose at all to contact me at some point when      15 we have got a 30(b)(6) in the chair and say, He is not      16 prepared to answer these questions. Where is that going      17 to put us then? I understand where it could put us      18 The question could then become, Well, let's get him      19 prepared or let's find somebody else that is prepared      20 because it is an appropriate subject under these topics      21 and subtopics</p> <p>22 At this stage of where we are, I don't think      23 that makes any sense to anyone</p> <p>24 MS ROMAN: No, Your Honor, I would agree.</p>
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<p>1 that information and we certainly don't have the time      2 right now to waste going back over that kind of      3 information.      4 It would be information that we weren't able      5 to ascertain about the sales of the products, the costs      6 of certain features of the products, and whether or not      7 any features that we can now point to in a document or      8 inquire about during the deposition and say, Okay, did      9 you advertise that feature as a specific feature that      10 was important to the product? These are things that we      11 weren't able to go into previously</p> <p>12 MR. CHRISTENSON: Your Honor, I really think      13 that points out the difficulty here. We are talking      14 about, Did you advertise an unspecified feature for --      15 or even a particular specified feature for an      16 unspecified product right now, which could be one of      17 hundreds or thousands of products over a more than      18 ten-year time period, and I don't know how to prepare a      19 deponent to answer that without knowing, in advance,      20 what we are talking about</p> <p>21 SPECIAL MASTER POPPITI: Well, are we not --      22 I think, by virtue of what you just said, you don't      23 disagree that the potential information is relevant? I      24 didn't hear you say that. What you said was, We are,</p>	<p>1 And as I said, I think, at the beginning, this case is      2 about the fastening elements and how the product is      3 ultimately mounted</p> <p>4 SPECIAL MASTER POPPITI: Well, I don't      5 disagree that what you have suggested, by virtue of this      6 summary topic, if you will, it is relevant, but I really      7 would urge you, before asking me to make any judgment      8 about this, to see if there can't be a process that you      9 agree to that will get you to the point of identifying      10 what you really are going to be focused on in the      11 deposition so that LPL can, in turn, prepare their      12 witness</p> <p>13 If, ultimately, the witness that they      14 prepare with respect to anything that you identify with      15 some degree of specificity says, you know, I can't tell      16 you that, we just don't do that, I have no idea, that's      17 a little bit different from saying, I am just not      18 prepared because it was too big and I only could bite      19 off a certain piece of this</p> <p>20 Is that fair?</p> <p>21 MS ROMAN: Absolutely, Your Honor. And if      22 I might have until tomorrow so that I could have a      23 chance to speak with Tatung about it off-line as well so      24 we can try and come to some other clarity on that, that</p>

## Hearing

19 (Pages 70 to 73)

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<p>1 would be helpful</p> <p>2 SPECIAL MASTER POPPITI: Mr Merideth</p> <p>3 MR MERIDETH: Yes, that's fine, Your Honor</p> <p>4 Although I do still wish to be heard, and I don't want</p> <p>5 to interrupt, on this issue of LG Electronics because I</p> <p>6 don't want --</p> <p>7 SPECIAL MASTER POPPITI: We will get back to</p> <p>8 it, please</p> <p>9 Mr Christenson, do you agree with the</p> <p>10 approach?</p> <p>11 MR CHRISTENSON: Yes, Your Honor, I do</p> <p>12 SPECIAL MASTER POPPITI: Is it now time to</p> <p>13 talk about LG?</p> <p>14 MS ROMAN: I think it fits within the scope</p> <p>15 of this overarching issue, if at all, so I can reserve</p> <p>16 my last issue until we have heard on that</p> <p>17 SPECIAL MASTER POPPITI: Please,</p> <p>18 Mr Merideth.</p> <p>19 MR MERIDETH: Your Honor, the underlying</p> <p>20 facts that were developed during the course of the</p> <p>21 30(b)(6) witnesses are that the invention, ostensibly,</p> <p>22 was made during a period of time that the inventors were</p> <p>23 employed by LG Electronics</p> <p>24 Later, before the U.S. application was</p>	<p>1 access to that information</p> <p>2 We were stumped, frankly, in the deposition</p> <p>3 of Mr Kim when he claimed he didn't have a lot of</p> <p>4 information about prior art, didn't know anything about</p> <p>5 it, never heard of rear mounting prior to the time that</p> <p>6 it was invented and so forth</p> <p>7 Now it appears, with this Lucky Gold Star</p> <p>8 module, that at least Mr Kim was ill informed. We</p> <p>9 don't want to have a repetition of that situation. And,</p> <p>10 so, I want to be clear that this topic includes, to the</p> <p>11 extent that LPL was a division of LGE prior to 19 -- the</p> <p>12 end of 1999, that we get that information</p> <p>13 SPECIAL MASTER POPPITI: Let me ask this</p> <p>14 question before hearing from Mr Christenson -- and I</p> <p>15 realize this is, perhaps this whole process that we have</p> <p>16 been engaged in for the latter part of working together</p> <p>17 today is a little bit unorthodox -- it seems to me what</p> <p>18 we are looking for is, if you will, like an open book</p> <p>19 exam in the sense that there has been a representation</p> <p>20 that the defendants will make a best effort to lay up</p> <p>21 those things that are going to be the subject of the</p> <p>22 actual deposition with a good faith understanding that</p> <p>23 there may be something added, that's added, by virtue of</p> <p>24 the preparation for the deposition even in the last</p>
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<p>1 filed, LG Electronics' LCD division, if you will,</p> <p>2 including the unit, the business unit that employed the</p> <p>3 inventors, was sold or transferred to a corporation</p> <p>4 which was a wholly-owned entity by LGE and later became</p> <p>5 a joint venture with Phillips</p> <p>6 We have had produced in this case, as we had</p> <p>7 proceeded along, certain sales data and other</p> <p>8 information concerning products that were LG products</p> <p>9 during the time frames that we think are relevant</p> <p>10 beginning at least in 1996. Those documents, those</p> <p>11 sales records appear to be in the possession or at least</p> <p>12 accessible to LPL</p> <p>13 We also now have the Lucky Gold Star module</p> <p>14 which was manufactured in 1996 and which was in the</p> <p>15 possession of LPL at least in 1999 and 2000 when it was</p> <p>16 produced in the NEC case</p> <p>17 What I don't want to have, when we take</p> <p>18 these depositions, is a situation that the LPL 30(b)(6)</p> <p>19 witness says, Oh, I don't know anything about that</p> <p>20 product; that was an LGE product; we don't know anything</p> <p>21 about it</p> <p>22 In this case, we know that they knew of the</p> <p>23 recently produced Lucky Gold Star module and we do have</p> <p>24 sales data that relates to that, so we believe they have</p>	<p>1 days, that even that information is going to be provided</p> <p>2 to the witness</p> <p>3 Maybe it should simply work both ways. And</p> <p>4 I understand what you have just said about the history</p> <p>5 of the entities. It seems to me that either the witness</p> <p>6 is prepared or the witness simply says, We don't have</p> <p>7 that and I can't prepare on something we don't have.</p> <p>8 And if a witness were to be saying that, either in</p> <p>9 advance of the deposition, because there is going to be</p> <p>10 some identification and perhaps there should be a</p> <p>11 response in the context of what we are doing here now,</p> <p>12 that representation means that it's not accessible. And</p> <p>13 I would take that to mean it's just not there, whether</p> <p>14 you call it -- whether you call it LG, whether you call</p> <p>15 it anywhere along the chain of how that happened. I</p> <p>16 didn't say that well. I am getting tired.</p> <p>17 Do I make any sense at all? If I don't,</p> <p>18 please tell me</p> <p>19 MR MERIDETH: No, you do, Your Honor</p> <p>20 The problem that we confronted with Mr Kim</p> <p>21 is that he, obviously -- although he was the 30(b)(6)</p> <p>22 witness, he, obviously, had less than perfect</p> <p>23 institutional knowledge because he did not have, or</p> <p>24 purported not to have any information concerning the</p>

## Hearing

20 (Pages 74 to 77)

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1	Lucky Gold Star product, which, you know, LPL had, in	1 knowledge needs to be investigated
2	fact, produced in the NEC litigation sometime in 1999 or	2 SPECIAL MASTER POPPITI: Right
3	2000	3 MR CHRISTENSON: At the same time, Your
4	SPECIAL MASTER POPPITI: We will get to that	4 Honor, I do want to make it clear that LG -- there is a
5	in a moment	5 complex history there. LG is a company that has many
6	MR MERIDETH: So, he was an imperfect	6 different divisions, and there is a separation between
7	witness in that regard. We were, frankly, misled, and I	7 LG and LPL, and some of the -- Mr. Merideth was, I am
8	am not attributing any fault to anybody who was involved	8 not saying intentionally, but somewhat cryptic in terms
9	if Mr. Kim was unaware of this particular product, but	9 of what products he was referring to, and it's important
10	somebody at LPL was aware of it because it was produced	10 because if they want to ask questions about products
11	in the NEC litigation	11 that were made as finished products, such as monitors,
12	SPECIAL MASTER POPPITI: And I think my	12 that is not anything that LPL or LPL's predecessor
13	expectation is, given what has occurred in this case,	13 entity ever did. That's a separate product
14	perhaps even framed by a discussion on the NEC	14 So LPL has to know about its products and it
15	litigation, I anticipate that this witness is going to	15 has to be including historical knowledge, but there are
16	have the breadth of the knowledge and history that you	16 other entities and divisions of products that are not
17	anticipate	17 attributable to LPL.
18	And the best way, it seems to me, to do	18 SPECIAL MASTER POPPITI: But, hopefully, by
19	that, is, if everyone is in a position to do what I have	19 the time that becomes an issue, it will be a non-issue
20	suggested, you provide with as much specificity as you	20 because you will have the best understanding as to what
21	can what's going to be discussed, there should be some	21 products are going to be the subject of the deposition
22	acknowledgment of that, and say, Yeah, we are ready to	22 MR CHRISTENSON: That's true.
23	go with this witness and the witness is prepared.	23 SPECIAL MASTER POPPITI: Is there anything
24	And if, during the course of the deposition,	24 else that needs to be said with respect to that,
	Page 75	Page 77
1	there is a determination made that he isn't, we will	1 Mr Merideth?
2	cross that bridge when we come to it	2 MR MERIDETH: No, sir
3	MR MERIDETH: Okay	3 SPECIAL MASTER POPPITI: Next, please
4	SPECIAL MASTER POPPITI: Mr Christenson	4 MS ROMAN: Yes, Your Honor. The last
5	MR CHRISTENSON: Yes, Your Honor. I think	5 issue, and, understandably, I believe, at the
6	that makes sense. And I understand what you are saying	6 deposition, it would be a short issue, relate to LPL's
7	I don't agree with many of Mr. Merideth's comments, but	7 document and product retention policies and procedures
8	I don't think I need to respond to them directly	8 and the efforts they made to locate the documents and
9	SPECIAL MASTER POPPITI: I understand they	9 products that they have produced in response to -- that
10	need to be framed by the comments that you both make,	10 they have recently produced
11	but I wasn't reacting, if you will, to what Mr. Merideth	11 Just to follow-up on that, because, for
12	was saying so much as accepting the fact that I	12 example, we have talked briefly, earlier today, about
13	understand the nature of the entity and the entities as	13 the representations that were made about the lack of
14	they changed; I understand that the corporate history	14 categorization of products or the lack of ability to
15	and the knowledge has to flow right to the person in the	15 identify products based on mounting features, so it's --
16	chair	16 we'd like to just certainly follow-up and make sure we
17	MR CHRISTENSON: Yes, Your Honor. The only	17 understand how documents -- how these documents were
18	comment I have on that, because it is important, is that	18 maintained, how they were located and searched for to
19	there is no question that a Rule 30(b)(6) witness is	19 assure that we have covered everything and received
20	testifying on behalf of the entity and not just based on	20 everything that properly falls within the scope of the
21	personal knowledge	21 request
22	SPECIAL MASTER POPPITI: Right	22 And, as I said, I think that that would
23	MR CHRISTENSON: And, therefore, you know,	23 probably be a very short issue at the deposition, but,
24	whatever is fairly within the scope of the company's	24 nonetheless, one that we'd like to make sure we close

## Hearing

21 (Pages 78 to 81)

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<p>1 the door on  2 SPECIAL MASTER POPPITI: Mr Christenson  3 MR CHRISTENSON: Yes, Your Honor I think,  4 you know, given the guidance and your earlier comments,  5 which I assume apply here as well, I don't think there  6 is going to be a dispute on this I understand you to  7 be saying, you know, we focused on new issues, we  8 focused on the recently produced documents, I think  9 that's ViewSonic's intent, from what I just heard I  10 don't think they are going to now seek to go back and do  11 what was or could have been done earlier  12 So, in that -- assuming that to be the case,  13 then that's fine  14 SPECIAL MASTER POPPITI: Ms Roman  15 MS ROMAN: Yes, that's correct, Your Honor  16 SPECIAL MASTER POPPITI: Okay  17 MS ROMAN: That's the end of my spirit of  18 the deposition issues  19 SPECIAL MASTER POPPITI: Thank you  20 MR CHRISTENSON: Your Honor, there was one  21 issue that I am not sure we need to address right now,  22 but I just want to make sure no one thinks it was  23 resolved, and if it was, I missed it, and, that is,  24 whether the -- the two subtopics that Tatung raised</p>	<p>1 it was not produced until just three weeks ago, and  2 whether and why not, with respect to its disclosure to  3 the Patent Office since it appears to have been  4 available to LPL during the crucial time period, namely,  5 1999 and 2000. And we think that that is a topic that  6 is very important with respect to establishing intent  7 with regard to inequitable conduct, among other things,  8 and I think it does fall within the general subject  9 matters of '03 and four that Ms. Roman has raised, but  10 we don't want -- but saying that's covered by those  11 subjects, when, apparently, LPL disagrees, is something  12 that we need to vet now  13 SPECIAL MASTER POPPITI: I agree we should  14 vet it now, even if I consider it a subpart of what we  15 have discussed  16 MR CHRISTENSON: Your Honor, as I  17 understood, from prior meet and confers on this issue,  18 the issue that -- the issue that Tatung wants to explore  19 is something they feel relates to inequitable conduct,  20 and they want to know about what was done in the NEC  21 case with respect to collecting and producing documents  22 and who was involved in that effort, and it's not clear  23 to me how that could relate to the prosecution of the  24 patents-in-suit here, but, as I understand, that's the</p>
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<p>1 regarding the NEC litigation  2 SPECIAL MASTER POPPITI: I am about to do  3 that  4 MR CHRISTENSON: Okay  5 MS ROMAN: That actually might fall within  6 that last issue because these documents that relate to  7 the NEC litigation, they arise because they were the NEC  8 litigation documents that have been produced in this  9 recent production. But I will let Mr Merideth speak to  10 the specifics of the topic  11 SPECIAL MASTER POPPITI: Mr Merideth,  12 please  13 MR MERIDETH: Yes. The issue is a very  14 simple one. It appears that this document, which we  15 view as very important to the issue of prior art and  16 with respect to inequitable conduct, was a document in  17 LPL's possession, was called for by the requests, was  18 not produced until about three weeks ago  19 We believe, based upon the fact that it has  20 an LPL NEC bates number and that that NEC litigation was  21 in 1999 and 2000, being settled at the end of 2000 or  22 the beginning of 2001, that that document was produced  23 by LPL during that period of time, we want to know why  24 it wasn't produced when it was requested initially, why</p>	<p>1 issue they want to explore  2 Our position is that whatever happened in  3 the NEC case with respect to these documents and how  4 they were collected and what trial counsel was involved  5 and -- which, I, frankly, don't know the answer to  6 that -- but who at LPL was involved, I don't see how  7 that's going to advance the ball in this case in any  8 direction  9 The issue, you know, if they want to make an  10 argument that something in that production should have  11 been disclosed, for whatever reason, to the Patent  12 Office, then I guess they can make that argument. But  13 to get into issues about which people produced which  14 documents in a case that was settled many years ago, I  15 think, is getting far afield and would add a layer of  16 unnecessary burden to this whole effort  17 SPECIAL MASTER POPPITI: Well, let me ask  18 this question: Doesn't the -- let me just assume the  19 facts or the conclusion that Mr Merideth wants to draw  20 with respect to that document, and, that is, and correct  21 me, Mr Merideth, if I am wrong, that it is prior art?  22 MR MERIDETH: That's correct  23 SPECIAL MASTER POPPITI: So, let me assume  24 that for the moment</p>

## Hearing

22 (Pages 82 to 85)

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<p>1 And knowing, assuming that for the moment,      2 that it was produced at a point in time when the      3 patents-in-suit were being prosecuted, that that's not      4 disputed; correct?</p> <p>5 MR. CHRISTENSON: Your Honor, I don't know      6 if -- I don't know that that's the case. I am not in a      7 position to tell you affirmatively that that's      8 incorrect. I just don't know the answer to that.</p> <p>9 SPECIAL MASTER POPPITI: Well --</p> <p>10 MR. CHRISTENSON: I was not involved in the      11 NEC case and I don't know that there is anything that      12 specifically establishes that one way or the other.</p> <p>13 SPECIAL MASTER POPPITI: Mr. Merideth, I      14 think you told me that the, and I think the papers      15 reflect, that the NEC case was -- you help me. Direct      16 me to the dates that you are referring.</p> <p>17 MR. MERIDETH: Yes, sir. There are two NEC      18 cases that were related. They were commenced either at      19 the end of 1998 or early 1999, and they were settled at      20 the -- in early, or at least the docket shows that the      21 Court was informed that they were settled early in 2001,      22 and they were actually dismissed, if my memory is      23 correct, by sometime in the spring of 2001.</p> <p>24 SPECIAL MASTER POPPITI: All of that,</p>	<p>1 tomorrow, end of day, only assuming that I could report      2 to you before then that we had provided the specifics      3 that have been requested, and, if not, then perhaps we'd      4 have to have it on Monday.</p> <p>5 I really hate to push this out and continue      6 pushing this out because, as Your Honor is aware, the      7 reason that we wanted this deposition and we have been      8 moving to get it so rapidly is because of the August      9 28th pending date for the opening expert report on      10 invalidity.</p> <p>11 I am just not sure what to do in that regard      12 with following up with this.</p> <p>13 SPECIAL MASTER POPPITI: It needs to be done      14 tomorrow. My concern -- let me just look at something,      15 please. I have a hearing that I am preparing for      16 tomorrow at 3:00 in another matter, and I am hoping that      17 that's not going to last more than an hour and a half.      18 I am inclined to say that if I need to be involved at      19 all, it needs to be at 5:00.</p> <p>20 MR. CHRISTENSON: Your Honor, I think we      21 need to, you know, to move this process forward as      22 quickly as possible to try to make sure we are all on      23 the same page with what it is you expect to happen with      24 respect to this deposition.</p>
<p>1 accepting those dates, all of that falls into the time      2 frame when the patents-in-suit were being prosecuted?</p> <p>3 MR. MERIDETH: That's correct. And that's      4 why we believe that it is important to figure out who,      5 at LPL, had possession of that document in order to      6 produce it in the NEC case, and why, if they thought it      7 to be relevant in the NEC case, they didn't disclose it      8 to the Patent Office?</p> <p>9 SPECIAL MASTER POPPITI: I am satisfied that      10 you have the right to pursue that line to see if you can      11 draw that straight line because it is certainly relevant      12 to the issue of intent and the overarching issue of      13 inequitable conduct, so I am going to permit it to be      14 part of the deposition subtopics, if you will.</p> <p>15 And I understand what it does. It opens up      16 a category of inquiry that is not insignificant.</p> <p>17 Okay. How do you expect that we can close      18 out the DM 37? Is it a matter of reporting back to me      19 with advice that everything is worked out?</p> <p>20 MS. ROMAN: Perhaps, yes, it would be to      21 report back to you. I think that there are the issues      22 that the timing of the deposition and the length of the      23 deposition that remain unresolved and I am not sure how      24 best to handle that unless we could have a call.</p>	<p>1 I also, though, need to, obviously, talk to      2 my client and inform them of today's events, and I will      3 need to coordinate closely with them in terms of what      4 our position is going forward.</p> <p>5 So, I don't know what exactly ViewSonic has      6 in mind in terms of scheduling discussions with      7 ViewSonic and further discussions with you. I am just      8 saying I don't know that tomorrow is the day that we      9 would have been able to have received and discussed      10 fully the, you know, the proposed more specific subject      11 matters.</p> <p>12 SPECIAL MASTER POPPITI: Let me ask this      13 question: Have you talked about dates?</p> <p>14 MS. ROMAN: We have not talked about the      15 dates. ViewSonic put in dates in the most recent      16 correspondence, and, of course, other than to the extent      17 that, in the previous hearing, I have mentioned that it      18 needs to take place as far in advance of the 28th as it      19 could.</p> <p>20 The issue of the -- and we did talk about      21 the length of the deposition during our last meet and      22 confer. I guess I only see that as the only two issues      23 that we would need to follow-up on because, as I      24 understand the directive from today, and I will go back</p>

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23 (Pages 86 to 89)

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<p>1 through the transcript just to make sure I have got it      2 correct, that we have to identify the later products      3 that we want to focus in on so that they can prepare on      4 those products, and then, with respect to the sales      5 information, we need to provide more specifics, and, as      6 I understand it, that would include examples such as,      7 specifically, what features and what sales information      8 and relate it back to those same products that we have      9 identified</p> <p>10 SPECIAL MASTER POPPITI: Yes</p> <p>11 MS ROMAN: And I don't know that that would      12 require any further discussion because you have      13 instructed us to provide the specifics</p> <p>14 SPECIAL MASTER POPPITI: That shouldn't      15 require any further discussion</p> <p>16 MS ROMAN: But the length of the deposition      17 and the date for the deposition, I think, are the only      18 two issues that remain briefed in the parties' letters      19 that need to be discussed</p> <p>20 MR CHRISTENSON: Your Honor, if ViewSonic      21 comes back and says, you know, We want the same 70      22 products that we identified before we started today, we      23 really haven't -- nothing has really changed, so I am      24 not sure I agree that there won't be any further</p>	<p>1 you are all going to be spending time doing whatever you      2 need to do with respect to this case even over the      3 weekend</p> <p>4 MS ROMAN: Yes, Your Honor</p> <p>5 SPECIAL MASTER POPPITI: And if that's the      6 case, I think it's important for me to say to you, If      7 what I am going to be asked to focus on is the date and      8 the time and you can't turn to it on Friday and you can      9 turn to it on Saturday, it's not going to take 15      10 minutes of my time to do that</p> <p>11 MR CHRISTENSON: Your Honor, I don't see      12 any reason we could not have a discussion among counsel      13 tomorrow. And if there is a dispute, I don't see any      14 problem with bringing it to your attention tomorrow      15 rather than at a future time.</p> <p>16 There may be other -- you know, there may be      17 facts I don't know when we have the discussion tomorrow      18 but that may not make a difference for purposes of      19 getting your input</p> <p>20 SPECIAL MASTER POPPITI: I am happy to do it      21 5:00</p> <p>22 MS ROMAN: That works for ViewSonic, Your      23 Honor</p> <p>24 MR CHRISTENSON: That's fine, Your Honor</p>
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<p>1 discussion</p> <p>2 I think it depends on --</p> <p>3 SPECIAL MASTER POPPITI: I think when      4 Ms Roman was saying "any further discussion," on the      5 topics, the parameters, and things of that nature</p> <p>6 Let me just make an observation about the      7 time without getting into a specific number. It seems      8 to me, by virtue of what you have agreed to today, that      9 you have achieved some economy here, at least I hope      10 that's the case in terms of the focus of the witness      11 when he or she is testifying. And I think that's the      12 case</p> <p>13 So, I am hoping that you have some      14 discussion as early as tomorrow about the date and time      15 I really don't think I need to be engaged on any other      16 detail</p> <p>17 MR CHRISTENSON: That's fine, Your Honor</p> <p>18 SPECIAL MASTER POPPITI: So, if you are      19 telling me it can't possibly be done tomorrow because      20 you are not going to be able to confer about date and      21 time and have some discussion with your client, I am      22 going to have to take you at your word</p> <p>23 At the same time, I am going to anticipate,      24 and I don't mean to be -- I am going to anticipate that</p>	<p>1 SPECIAL MASTER POPPITI: And if I am running      2 late, I will -- just a moment -- I will let you know      3 Now, 5:00 works for everyone?</p> <p>4 MR CHRISTENSON: Yes, Your Honor</p> <p>5 MR MERIDETH: Yes, Your Honor</p> <p>6 SPECIAL MASTER POPPITI: The only other      7 issue, and I don't know whether we should make any      8 effort to deal with this today, although we have got to      9 deal with it soon, is your continuing conversations      10 regarding Rudich. If I mispronounce it, I apologize.</p> <p>11 MR CHRISTENSON: It's actually Rudich. Your      12 Honor</p> <p>13 SPECIAL MASTER POPPITI: I got it wrong.      14 The court reporter got it right.</p> <p>15 MR MERIDETH: Your Honor, we have made a      16 proposal to LPL that would not require the production of      17 any of the privilege log documents and which would limit      18 Miss Rudich's testimony to the one '079 application</p> <p>19 SPECIAL MASTER POPPITI: Right</p> <p>20 MR MERIDETH: However, the condition to      21 that is that, if it's necessary, based upon whatever      22 discussion is had with the 30(b)(6) witness for LPL, and      23 I believe that this will be required, we wish to take      24 the deposition of a person who is knowledgeable at</p>

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24 (Pages 90 to 93)

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<p>1 McKenna concerning the subject of the disclosures made      2 to the Patent Office and the discussions concerning      3 other rear mountable products We think that's      4 reasonable</p> <p>5 Frankly, we were led to believe, by the      6 Rudich declaration, that she had that knowledge She      7 didn't indicate, in her declaration, that she had only      8 limited -- that she had only limited authority and was      9 an associate She submitted the declaration in      10 connection with the patents-in-suit, and we assumed, I      11 believe reasonably, that she was talking about her      12 participation in the process during the relevant time      13 period of the application, not just very recently</p> <p>14 That would eliminate any need to go through      15 the privileged materials and it could be a very narrow      16 further deposition as the person most knowledgeable      17 related to the issues that are kind of keyed up by the      18 deposition of the LPL 30(b)(6) witness</p> <p>19 SPECIAL MASTER POPPITI: Let me see if I      20 understand what you are saying, and I did see that      21 proposal and you did attach some documents to it and I      22 know that LPL hasn't had a chance to -- or hasn't filed      23 anything with me in terms of response to what you have      24 advised</p>	<p>1 MR CHRISTENSON: Your Honor, I think we      2 have really got two separate issues on the table here      3 One set of issues relates to Miss Rudich's deposition,      4 which we, obviously, already discussed with Your Honor</p> <p>5 SPECIAL MASTER POPPITI: Yes</p> <p>6 MR CHRISTENSON: The idea of taking a      7 30(b)(6) deposition of this law firm, McKenna, Long &amp;      8 Aldridge, really was suggested to us for the first time      9 in a letter that I received on August 14th There has      10 been no discussion among counsel on that issue</p> <p>11 SPECIAL MASTER POPPITI: Then let's hold it      12 Let's have the discussion, please -- I understand that      13 the backdrop may very well be the information that's      14 gathered as a result of the 30(b)(6) witness that we      15 have been talking about for the past hour or so, frame      16 the issue, and I will deal with it as quickly as it is      17 important to deal with it But it's something that I      18 shouldn't be dealing with today</p> <p>19 MR CHRISTENSON: The only other thing,      20 then, Your Honor, is I think there was, at one point, a      21 request by Tatung for us to submit to Your Honor for in      22 camera review certain documents on our privilege log</p> <p>23 SPECIAL MASTER POPPITI: That should be --</p> <p>24 MR CHRISTENSON: As I understood it, Tatung</p>
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<p>1 I mean, I understand everyone wants to      2 finish -- we should have finished it a long time ago --      3 issues involving discovery, but I think what I am      4 hearing is it really depends on what happens with the      5 30(b)(6) witness in terms of whether or not there is a      6 need for someone else to be designated as a 30(b)(6)      7 witness; correct?</p> <p>8 MS HO: Your Honor --</p> <p>9 MR MERIDETH: It may I think the answer      10 is it may</p> <p>11 SPECIAL MASTER POPPITI: It may</p> <p>12 MR MERIDETH: For example, it could be that      13 the 30(b)(6) witness would say, in response to      14 questions, We were aware of the Lucky Gold Star product      15 for whatever reason, we did not disclose it to anybody      16 who was involved at McKenna or any of its predecessor      17 firms with regard to the prosecution of this patent or      18 anything else, in which event it wouldn't be necessary      19 to ask anybody at McKenna other than to ask, Well, what      20 were the procedures in place that ferret out this      21 information and was any effort made in that regard?</p> <p>22 If the testimony is, Yes, we were aware of      23 this product, and, Yes, we did communicate it to our      24 lawyers, then there is a different inquiry to be made.</p>	<p>1 was going to submit a form of order specifying the      2 documents to be submitted, but I don't think that's been      3 done yet and I don't know if that's still something that      4 Tatung is interested in pursuing</p> <p>5 SPECIAL MASTER POPPITI: I think what I hear      6 is Mr Merideth is saying, for the purpose of seeing if      7 we can't forge some agreement here, and that may be an      8 agreement that has to await the conclusion of the      9 30(b)(6) deposition, that should be forestalled; I think      10 I am hearing that, Mr Merideth?</p> <p>11 MR MERIDETH: Well, that's part of it, Your      12 Honor I think the other part of it is: Up until our      13 discussion on Monday, I was not aware of the information      14 related by Ms Brzezynski that, during the time periods      15 when this patent was being prosecuted, Ms Rudich was      16 only an associate That certainly was not clear, in my      17 view, from her declaration</p> <p>18 SPECIAL MASTER POPPITI: I think, for my      19 comments, I understood the declaration to be as you      20 understood it I didn't understand, until we had our      21 last teleconference, that her role was not as -- her      22 role was not -- I didn't come away from her -- I came      23 away from the declaration with a different understanding      24 of her role</p>

## Hearing

25 (Pages 94 to 96)

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1        MR CHRISTENSON: Your Honor --	1                    CERTIFICATE
2        MR MERIDETH: My response to that was our	2        STATE OF DELAWARE:
3 letter, which, basically, says, to put it in a nutshell,	3                    :
4 If she is not the person who has the information, then	4        NEW CASTLE COUNTY:
5 let's not produce all the confidential documents and go	5        I, Renee A Meyers, a Registered Professional
6 through that effort Let's find the person who is the	6        Reporter, within and for the County and State aforesaid,
7 relevant individual Let's limit the subjects that are	7        do hereby certify that the foregoing teleconference was
8 going that are to be asked of that individual We know	8        taken before me, pursuant to notice, at the time and
9 that it's a sensitive area that relates to the issues of	9        place indicated; that the teleconference was correctly
10 privilege. We ought to approach it with a scalpel	10      recorded in machine shorthand by me and thereafter
11 instead of a meat axe.	11      transcribed under my supervision with computer-aided
12        But it's apparent from Miss Brzezynski's	12      transcription; that the foregoing teleconference is a
13 comments that our conception, my conception that	13      true record; and that I am neither of counsel nor kin to
14 Miss Rudich is the appropriate person was not correct	14      any party in said action, nor interested in the outcome
15        So, I am saying, Okay, if she is not	15      thereof
16 correct, why are we going to go through the requirement	16        WITNESS my hand this 17th day of August A.D.
17 that confidential documents be produced and that you	17      2007
18 review them in camera to what end? It seems to me that	18
19 we need to address that issue	19
20        SPECIAL MASTER POPPITI: I miss spoke when I	20        RENEEE A MEYERS
21 said "forestalled" I do understand what you are	21        REGISTERED PROFESSIONAL REPORTER
22 saying I think what I am hearing is there needs to be	22        CERTIFICATION NO 106-RPR
23 additional conversation in terms of who, if anyone, I	23        (Expires January 31, 2008)
24 want you to have that conversation I want to be	24
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1 informed about it I am not going to give you a	
2 deadline today I want you to tell me whether you have	
3 either reached some understanding about an additional	
4 30(b)(6) on the issue that's just been discussed, and if	
5 you can't resolve it, it's not going to take more than	
6 15 minutes for me to resolve it for you	
7        MR CHRISTENSON: Very well, Your Honor.	
8        MR MERIDETH: That's fine with me, Your	
9 Honor	
10        SPECIAL MASTER POPPITI: Okay Is there	
11 anything else, or should we wait for 6:00?	
12        MR CHRISTENSON: I think we should wind up	
13 Your Honor	
14        SPECIAL MASTER POPPITI: I think we should	
15 wrap it up	
16        MS ROMAN: I agree, Your Honor	
17        SPECIAL MASTER POPPITI: Thank you all very	
18 much	
19        (The hearing was concluded at 5:55 p.m.)	
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